TITLE 16.—CONSERVATION

Chap. Sec.

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Chapter 1.—THE NATIONAL PARKS, MILITARY PARKS, MONUMENTS, AND SEASHORES

GRAND CANYON NATIONAL PARK

Sec.

228a. Enlargement of boundaries; statement of purpose [New].
228b. Same; composition [New].
(a) Additional lands, waters, and interests therein.
(b) Abolition of Grand Canyon and Marble Canyon National Monuments.
(c) Study and report to Congress of suitability of lands included within enlarged boundaries; submission date.
228c. Same; acquisition of lands within enlarged boundaries by donation, purchase, or exchange; transfer of jurisdiction over Federal lands [New].
228d. Same; acquisition of State of Arizona or local lands by donation or exchange; approval for transfer to United States of Indian trust lands [New].
228e. Same; cooperative agreements for protection and unified interpretation of enlarged Grand Canyon; scope of agreements [New].
228f. Same; preservation and renewal of existing grazing rights within enlarged boundaries; term of renewal [New].
228g. Same; aircraft or helicopter regulation within enlarged boundaries; procedure for promulgation of administrative rules and regulations [New].
228h. Same; construction with existing Colorado River system reclamation provisions [New].
228i. Same; Havasupai Indian Reservation [New].
(a) Lands of Havasupai Reservation Addition held in trust by United States; boundaries.
(b) Lands held in trust by United States included within Reservation; administration pursuant to laws and regulations applicable to other trust Indian lands; specific administrative criteria and restrictions.
(c) Establishment, maintenance, and implementation of conservation measures; availability of Federal programs relating to Indians; right of access to lands for implementation of Federal projects, resource management and preservation, and tribal religious, etc., functions.

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228i. Same; Havasupai Indian Reservation [New].—Con.
(d) Grazing rights on the Raintank Allotment; continuation and renewal.
(e) Havasupai Use Lands; use for grazing and other traditional purposes subject to regulations.
(f) Extinguishment of all tribal right, title, and interest in lands not otherwise declared as held in trust or covered by provisions enlarging Grand Canyon.
228i-1. Same; report to President [New].
228j. Same; authorization of appropriations; availability of sums [New].

CUMBERLAND GAP NATIONAL HISTORICAL PARK

266. Authorization of appropriations for acquisition of additional lands [New].
267. Authority of Secretary to acquire additional lands [New].

CANYONLANDS NATIONAL PARK

271e. Same; report to President [New].
271f. Same; road alinements, study; report to Congress [New].
271g. Same; authorization of appropriations [New].

ARCHES NATIONAL PARK [NEW]

272. Arches National Park.
(a) Establishment.
(b) Abolition of Arches National Monument; funds of monument available for park; administration of lands excluded from monument.
272a. Same; acquisition of property; authority of Secretary; State property.
272b. Same; grazing priviliges; right of occupancy or use for fixed term of years; renewal.
272c. Same; livestock trails, watering rights; driveway designation and regulation.
272d. Same; administration, protection, and development of park; report to President.
272e. Same; road alinements, study; report to Congress.
272f. Same; authorization of appropriations.

CAPITOL REEF NATIONAL PARK [NEW]

273. Capitol Reef National Park.
(a) Establishment.
(b) Abolition of Capitol Reef National Monument; funds of monument available for park; administration of lands excluded from monument.
273a. Same; acquisition of property; authority of Secretary; State property.
273b. Same; grazing privileges; right of occupancy or use for fixed term of years; renewal.
273c. Same; livestock trails, watering rights; driveway regulations.
273d. Same; administration, protection, and development of park; easements and rights-of-way; report to President.
273e. Same; road alinements, study; report to Congress.
273f. Same; authorization of appropriations.

BOSTON NATIONAL HISTORICAL PARK [NEW]

410z. Establishment.
(a) Acquisition of properties by donation or with donated funds.
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(c) Publication of notice of establishment.
(d) Charlestown Navy Yard.

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410z–1. Acquisition of additional sites.
(a) Studies.
(b) Cooperative agreements authorized.
(c) Identification and marking of significant historical sites.
410z–2. Boston National Historical Park Advisory Commission.
(a) Establishment; membership.
(b) Termination of Commission.
(c) Vacancies; chairman.
(d) Majority rule.
(e) Consultation between Secretary and Commission.
(f) Compensation; payment of expenses.
410z–3. Visitor center.
410z–4. Administration.
410z–5. Authorization of appropriations.

NATIONAL MILITARY PARKS

422a–2. Same; authorization of appropriations [New].

NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

433f–1. Change in name of Perry's Victory and International Peace Memorial National Monument [New].

NATIONAL SEASHORE RECREATIONAL AREAS

459g–7. Same; authorization of appropriations; master plan to Committees on Interior and Insular Affairs; time; contents [New].
459l. Cumberland Island National Seashore; purposes; establishment; boundary revisions: notification of Congressional committees, publication in Federal Register [New].
459l–1. Same; acquisition of lands; authority of Secretary; mainland lands for access to seashore administrative and visitor facilities; State lands; transfer from Federal agency to administrative jurisdiction of Secretary [New].
459l–2. Same; Cumberland Island Parkway; right-of-way; administration; regulations [New].
459l–3. Same; acquisition of property [New].
(a) Private right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; exception of property for visitor facilities or administration of seashore; compensation; contemporaneous restriction on development of public use facilities; lands, waters, and interests from National Park Foundation.
(b) Commercial use prohibition; termination of use and occupancy upon tender of compensation.
(c) "Improved property" defined.
(d) Little Cumberland Island; acquisition restrictions.
459l–4. Same; hunting and fishing [New].
4951–5. Same; administration, protection, and development [New].
(a) Applicability of provisions; utilization of statutory authorities.
(b) Preservation in primitive state; recreational activities exception.
459l–6. Same; State and local jurisdiction [New].
459l–7. Same; water resource developments [New].
459l–8. Same; report to President [New].
459l–9. Same; authorization of appropriations [New].
459j. Canaveral National Seashore; establishment; boundary; boundary revisions; limitation on area [New].
459j–1. Same; acquisition of property; donation and development of State lands; transfer from Federal agency to administrative jurisdiction of Secretary; written cooperative agreement with National Aeronautics and Space Administration; construction and development; report to Committees of Congress [New].
Sec.
459j–2. Same; improved property [New].
(a) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exception of property for visitor facilities, access to, or administration of seashore; compensation.
(b) Termination of use and occupancy upon inconsistent use; tender of compensation.
(c) Improved property defined.
(d) Condemnation as means for acquiring clear and marketable title.
459j–3. Same; designation of hunting, fishing and trapping zones; regulations; consultation with appropriate State agencies [New].
459j–4. Same; administration, protection and development [New].
(a) Conservation and management of natural resources.
(b) Administration of lands in Merritt Island National Wildlife Refuge.
(c) Division of management authority between National Park Service and United States Fish and Wildlife Service.
459j–5. Same; Canaveral National Seashore Advisory Commission [New].
(a) Establishment; duties; termination; membership; term of members; appointment; Chairman.
(b) Meetings; vacancies.
(c) Compensation; payment of expenses upon vouchers.
459j–6. Same; transfer of lands for use at administrative and visitor facilities to Secretary of Interior; use of portion of John F. Kennedy Space Center; transfer of exces land within seashore to Secretary of Interior [New].
459j–7. Same; report to President [New].
459j–8. Same; authorization of appropriations; limitations for acquisition of land and development of public facilities; prompt acquisition of private lands; report to committees of Congress; contents; time; master development plan; transmittal to committees of Congress; contents [New].

OUTDOOR RECREATION PROGRAMS

460l–6a. Admission and special recreation use fees. [New].
(a) Admission fees at designated areas; "Golden Eagle Passport" annual admission permit; issuance and use of annual admission permit; single-visit fee; fee-free travel areas; "Golden Age Passport" annual entrance permit; issuance and use of annual entrance permit.
(b) Recreation use fees; collection; campgrounds at lakes or reservoirs under jurisdiction of Corps of Engineers; fees for Golden Age Passport permittees.
(c) Special recreation permits.
(d) Criteria, posting and uniformity of fees.
(e) Rules and regulations; establishment; enforcement powers; penalty for violations.
(f) Disposition of fees; contracts with public or private entities for visitor reservation services.
(g) Federal and State laws unaffected.
(h) Annual reports to Congress.

BUFFALO NATIONAL RIVER [NEW]

460m–8. Establishment.
460m–9. Acquisition of lands and waters.
(a) Donation, purchase, and excharge; reimbursement of State of Arkansas.
(b) Retention of rights.
(c) Improved property.
460m–10. Hunting and fishing; rules and regulations.
460m–11. Water resource projects.
460m–12. Administration, protection, and development.

Sec.
460m–13. Suitability for preservation as a wilderness; area review and report to President before March 1, 1975.
460m–14. Authorization of appropriations.

OREGON DUNES NATIONAL RECREATION AREA [NEW]

460z. Establishment.
460z–1. Administration, protection, and development.
460z–2. Inland sector; establishment as buffer sector.
460z–3. Boundary map; revision.
460z–4. Transfer of Federal property.
460z–5. Land acquisition in inland sector.
460z–6. Land acquisition in recreation area; donation and exchange; railway right-of-way; retention rights of owners of improved property.
460z–7. Hunting, fishing, and trapping.
460z–8. Mining restriction.
460z–9. Water utilization.
460z–10. Advisory Council; establishment; membership; functions.
460z–11. Area review, report to the President; wilderness designation.
460z–12. Federal-State cooperation.
460z–13. Authorization of appropriations.

SAWTOOTH NATIONAL RECREATION AREA [NEW]

460aa. Establishment of area.
(a) Statement of purposes.
(b) Publication in Federal Register; description of boundaries.
460aa–1. Administration.
(a) Recreation area.
(b) Wilderness area.
460aa–2. Acquisition of land.
(a) Authority of Secretary; manner; limitation; "scenic easement" defined.
(b) Offers of land; hardship from acquisition delays.
(c) Condemnation proceedings.
(d) Exchange of property; cash equalization payments.
(e) Mineral interests.
(f) State lands.
(g) Transfer from Federal agency to administrative jurisdiction of Secretary.
(h) Condemnation authority.
460aa–3. Private land, regulations.
(a) Use, subdivision and development standards; detail and specificity; land differences; amendment; promulgation; civil actions; jurisdiction, complaint, declaratory judgment.
(b) Condemnation restriction; acquisitions limitation.
460aa–4. Administrative determination of suitability for designation as wilderness areas.
460aa–5. Cooperation with other agencies in development and operation of facilities and services; Stanley, restoration.
460aa–6. State civil and criminal jurisdiction.
460aa–7. Hunting and fishing regulations.
460aa–8. Federal-State water rights.
460aa–9. Mining restriction; Federal lands withdrawn from location, entry, and patent under United States mining laws.
460aa–10. Land surface protection; regulations.
460aa–11. Patents; restriction on issuance.
460aa–12. Authorization of appropriations; availability of land and water conservation fund money.
460aa–13. Area analysis for park or park administrative unit proposal.
(a) Report to Congress.
(b) Considerations manifested in report to Congress.
(c) Master plan, cost estimates and proposed legislation for establishment of park administrative unit.
(d) Authorization of appropriations.
460aa–14. Separability of provisions.

GOLDEN GATE NATIONAL RECREATION AREA [NEW]

Sec.
460bb. Establishment of area; statement of purposes.
460bb–1. Composition and boundaries; boundary revisions: notification of Congressional committees; publication in Federal Register.
460bb–2. Acquisition policy.
(a) Authority of Secretary; exchange of property; disposal of certain lands; transfer from Federal agency to administrative jurisdiction of Secretary; facilities and improvements under permit from Secretary of Army.
(b) Transfer of certain properties to administrative jurisdiction of Secretary; military properties, reservation of use and occupancy by Secretary of Army; radio receiver station retention of jurisdiction when not superfluous.
(c) Same; military property; public service facilities: construction, maintenance, and determinations of identity and location by Secretary of Army.
(d) Presidio of San Francisco; use and occupation of certain acreage by Secretary.
(e) Same; use and occupancy of airfield acreage by Secretary.
(f) Same; transfer of remainder to administrative jurisdiction of Secretary; use and occupancy by Coast Guard under permit from Secretary.
(g) Transfer of certain Coast Guard properties to administrative jurisdiction of Secretary; navigational aids: maintenance and operation by Coast Guard and plans for access new installations.
(h) Transfer of certain property of Navy Department to administrative jurisdiction of Secretary.
(i) New construction; limitation; exceptions.
(j) Owner's reservation of right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; adjustment of compensation; termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right.
(k) Improved property defined.
(l) Relocation assistance benefits and rights; waiver through retention of right of use and occupancy; displaced person status of owner.
(m) Acquisition of land; contract authority; installment payments; interest rate; provisions applicable to judgments against United States.
460bb–3. Administration.
(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; provisions applicable to Muir Woods National Monument and Fort Point National Historic Site.
(b) Federal-State cooperative agreements for police and fire protection.
(c) Water resource developments.
(d) Transportation system; study for coordinated public and private system.
460bb–4. Golden Gate National Recreation Area Advisory Commission.
(a) Establishment.
(b) Membership; appointment; term of office.
(c) Vacancies.
(d) Compensation and expenses; vouchers.
(e) Consultations of Secretary with members.
(f) Voting.
(g) Termination date.
460bb–5. Authorization of appropriations; limitation; adjustments.

GATEWAY NATIONAL RECREATION AREA [NEW]

Sec.
460cc. Establishment of area; statement of purposes.
(a) Composition and boundaries.
(b) Boundary revisions: notification of Congressional committees: publication in Federal Register.
460cc–1. Acquisition of property.
(a) Authority of Secretary; donation of State lands.
(b) Transfer from Federal agency to administrative jurisdiction of Secretary.
(c) Breezy Point unit; public use and access; agreement for use of lands for single-family residential community; specific provisions; Rockaway parking lot conveyance.
(d) Jamaica Bay Unit; Broad Channel Community; title acceptance conditions.
460cc–2. Administration.
(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; Jamaica Bay Unit.
(b) William Fitts Ryan Visitor Center; designation.
(c) Federal-State cooperative agreements for police and fire protection.
(d) Water resource developments.
(e) Airway facilities; maintenance, operation, and installation; Jamaica Bay and Floyd Bennett Field restrictions.
(f) Hunting, fishing, and trapping.
(g) Sandy Hook and Staten Island Units; programs for preservation, restoration, interpretation, and utilization of sites and structures.
(h) Donations for services and facilities; acceptance.
460cc–3. Gateway National Recreation Area Advisory Commission.
(a) Establishment; termination date.
(b) Membership; appointment; terms of office; representation of interests.
(c) Chairman; vacancies.
(d) Compensation and expenses; vouchers.
(e) Voting.
(f) Consultations of Secretary with members.
460cc–4. Authorization of appropriations; limitation; adjustments.

GLEN CANYON NATIONAL RECREATION AREA [NEW]

460dd. Establishment of area; statement of purposes; composition and boundaries; boundary revisions, publication in Federal Register.
460dd–1. Acquisition of property.
(a) Authority of Secretary; donation or exchange of State lands; concurrence of tribal council respecting trust lands.
(b) Navajo Indian Tribe and Tribal Council reserved mineral and land use rights unaffected.
460dd–2. Public lands; withdrawal from location; entry, and patent under Federal mining laws; removal of minerals; disposition of funds from permits and leases.
460dd–3. Administration, protection, and development; statutory authorities for conservation and management of natural resources; Glen Canyon Dam and Reservoir.
460dd–4. Hunting and fishing.
460dd–5. Mineral and grazing leases; Bureau of Land Management administration and policies.
460dd–6. Easements and rights-of-way.
460dd–7. Proposed road study.
(a) Criteria and environmental impact of specific route.
(b) Timetable.
(c) Markers and other interpretative devices.
(d) Additional roads.
(e) Report to Congress.
460dd–8. Report to President.
460dd–9. Authorization of appropriations; limitation.

BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA [NEW]

Sec.
460ee. Establishment of National Area.
(a) Secretary defined; statement of purposes; boundaries.
(b) Publication in Federal Register; transfer from Secretary to administrative jurisdiction of Secretary of Interior; boundary revisions; acreage limitation.
(c) Acquisition of property; tracts; exchange and disposal of property; transfer from Federal agency to administrative jurisdiction of Secretary; residential property, right of use and occupancy; fair market value; transfer or assignment; lifetime residence of tenant or spouse; accrual of obligation or rental to United States; improved property defined; mineral rights.
(d) Hunting, fishing, and trapping; rules and regulations after consultations with State agencies.
(e) Gorge areas division: restrictions, access routes, maintenance of roads for non-vehicular traffic, ingress and egress of residents, protection of values; adjacent areas division; restrictions; boundaries; Rugby area: Federal consultations with involved agencies respecting development and management of adjacent National Area; Blue Heron Mine community, restoration; rail and alternative transportation study: report to Congress.
(f) Federal power and water resources projects; license and other restrictions; limitations inapplicable to external areas.
(g) Transportation facilities; study and establishment.
(h) New River plan and programs; transmittal to Congress.
(i) Water quality protection; interagency cooperation.
(j) Real and personal property tax losses; reimbursement; authorization of appropriations.
(k) Authorization of appropriations; prohibition of appropriation from Land and Water Conservation Fund.

CUYAHOGA VALLEY NATIONAL RECREATION AREA [NEW]

460ff. Establishment; statement of purposes; utilization of resources.
460ff–1. Acquisition of land.
(a) Composition and boundaries; boundary revisions.
(b) Manner of acquisition; donation of State lands; private lands essential to area; transfer of Federal property to Secretary.
(c) Scenic easements or other interests in improved property; prerequisites to acquisition of fee title.
(d) Acquire lands partly outside boundaries; exchange for non-Federal lands within boundaries; report to General Services Administration for disposal.
(e) Improved property defined; determination by Secretary.
(f) Retention by owner of right of use and occupancy for noncommercial residential or agricultural purposes; terms; payment of fair market value; termination by Secretary for use inconsistent with statutory purpose.
(g) Offers to sell for owners claiming undue hardship.

Sec.
460ff–2. Land acquisition plan; submission to Congressional committees; time; contents; Congressional expression of intent for time of completion of land acquisition program.
460ff–3. Administration.
(a) Provisions applicable; utilization of authorities for conservation and mangement of wildlife and natural resources.
(b) Federal-State cooperative agreements for police and fire protection.
(c) Water resource developments.
(d) Inventory and evaluation of historical, cultural and architectural sites and structures; programs for preservation, restoration, interpretation and utilization.
(e) Donations for services and facilities.
(f) Zoning laws and ordinances; consultation and assistance with local government in establishment; objectives.
460ff–4. Cuyahoga Valley National Recreation Area Advisory Commission.
(a) Establishment; membership; appointment; term; chairman; vacancies.
(b) Compensation and expenses; vouchers.
(c) Consultations by Secretary.
(d) Termination date.
460ff–5. Authorization of appropriations; limitations; final development master plan; consultations with State; transmission to Congressional committees; contents.

HELLS CANYON NATIONAL RECREATION AREA
[NEW]

460gg. Establishment; statement of purposes; composition; publication of boundary description in Federal Register.
460gg–1. Wilderness designation; application of Wilderness Act.
460gg–2. Federal power and water resources projects; license and other restrictions.
460gg–3. Present and future use of Snake River; flow requirements.
460gg–4. Administration, protection, and development of area.
460gg–5. Management plan for recreation area.
(a) Development and submission to committees of Congress.
(b) Consideration of historic, archeological and paleontological resources; inventory; recommendation of areas for listing in National Register of Historic Places; recommendation for protection on and research of resources.
(c) Scenic roads and other means of transit.
(d) Wilderness areas; review by Secretary; recommendations by President to Congress; notice of hearings and meetings.
(e) Public participation in reviews and preparation of plan; cooperation of other Federal agencies.
(f) Continuation of ongoing activities.
460gg–6. Acquisition of property.
(a) Authority of Secretary; manner of acquisition.
(b) Acquisition without consent of owners; limitations; scenic easements.
(c) Donation of Oregon land; donation of exchange of Idaho land.
(d) Definition of "scenic easement".
(e) Offers to sell land; hardship from delay.
(f) Exchange of land; equalization payments.
(g) Acquisition of mineral interests.
(h) Transfer of Federal property to Secretary.
460gg–7. Rules and regulations.
460gg–8. Lands withdrawn from location, entry, and patent under United States mining laws.
460gg–9. Hunting and fishing.
460gg–10. Ranching, grazing, etc., as valid uses of area.
Sec.
460gg–11. Civil and criminal jurisdiction of Idaho and Oregon.
460gg–12. Development and operation of facilities and services; cooperation with Federal, State, etc., agencies.
460gg–13. Authorization of appropriations.
(a) Acquisition of lands.
(b) Development of recreation facilities.
(c) Inventory, identification, development and protection of historic and archeological sites.

NATIONAL PARK SERVICE

§ 1. Service created; director; other employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272d, 273, 410z–4, 459i–5, 460m–12, 460bb–3, 460cc–2, 460dd–3, 460ee, 698c, 698i of this title; title 40 section 804; title 48 section 1705.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 2–1721 of the District of Columbia Code.

§ 1a–2. Secretary of Interior's authorization of activities.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2. National parks, reservations, and monuments; supervision.

SITKA NATIONAL HISTORICAL PARK

The Sitka National Monument, Alaska, established by Proc. No. 959, 36 Stat. 2601, including additional lands commemorating czarist Russia's exploration and colonization of Alaska and the Russian mission, was redesignated the Sitka National Historical Park by Pub. L. 92–501, Oct. 18, 1972, 86 Stat. 904.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272d, 273d, 410z–4, 459i–5, 460m–12, 460bb–3, 460cc–2, 460dd–3, 460ee, 698c, 698i of this title; title 40 section 804; title 48 section 1705.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 2–1721 of the District of Columbia Code.

§ 3. Same; rules and regulations; timber; leases.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272d, 273d, 410z–4, 459i–5, 460m–12, 460bb–3, 460cc–2, 460dd–3, 460ee, 698c, 698i of this title; title 40 section 804; title 48 section 1705.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 2–1721, 7–526 of the District of Columbia Code.

§ 4. Rights-of-way through public lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272d, 273d, 410z–4, 491i–5, 460m–12, 460bb–3, 460cc–2, 460dd–3, 460ee, 698c, 698i of this title; title 40 section 804; title 48 section 1705.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 2–1721 of the District of Columbia Code.

§ 18. Promotion of tourist travel.

The Secretary of Commerce shall encourage, promote, and develop travel within the United States,

including any Commonwealth, territory, and possession thereof, through activities which are in the public interest and which do not compete with activities of any State, city, or private agency. (As amended July 9, 1975, Pub. L. 94–55, § 2(b), 89 Stat. 262.)

AMENDMENTS

1975—Pub. L. 94–55 substituted "shall encourage, promote, and develop travel within the United States, including any Commonwealth, territory, and possession thereof, through activities which are in the public interest and which do not compete with activities of any State, city, or private agency" for "is authorized and directed to encourage, promote, and develop travel within the United States, its Territories and possessions, providing such activities do not compete with the activities of private agencies; and to administer all existing travel promotion functions of the Department of Commerce".

TRANSFER OF FUNCTIONS

Section 2 of Pub. L. 93–193, Dec. 19, 1973, 87 Stat. 765, provided that:

"(a) There are hereby transferred to and vested in the Secretary of Commerce all functions, powers, and duties of the Secretary of the Interior and other offices and officers of the Department of the Interior under the Act of July 19, 1940 (54 Stat. 773; 16 U.S.C. 18–18d).

"(b) The assets, liabilities, contracts, property, records, authorizations, and allocations, employed, held, used, rising from, available or to be made available in connection with the functions, powers, and duties transferred by subsection (a) of this section are hereby transferred to the Secretary of Commerce."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18a to 18d of this title.

§ 18d. Same; appropriations.

For the purpose of carrying out the provisions of sections 18 to 18d of this title, there are authorized to be appropriated not to exceed $2,500,000 for the fiscal year ending June 30, 1976; $625,000 for the transition period of July 1, 1976, through September 30, 1976; $2,500,000 for the fiscal year ending September 30, 1977, and $2,500,000 for the fiscal year ending September 30, 1978. (As amended July 9, 1975, Pub. L. 94–55, § 2(a), 89 Stat. 262.)

AMENDMENTS

1975—Pub. L. 94–55 substituted provisions authorizing appropriations not to exceed $2,500,000 for fiscal year ending June 30, 1976, $625,000 for the transition period of July 1, 1976 through Sept. 30, 1976, $2,500,000 for fiscal year ending Sept. 30, 1977, and $2,500,000 for fiscal year ending Sept. 30, 1978, for provisions authorizing appropriations not to exceed $250,000 for fiscal year 1971 and $750,000 for fiscal year 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 18a, 18b, 18c of this title.

VOLUNTEERS IN THE PARKS PROGRAM

§ 18j. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 18g to 18j of this title, but not more than $250,000 shall be appropriated in any one year. (As amended Pub. L. 94–128, Nov. 13, 1975, 89 Stat. 682.)

AMENDMENTS

1975—Pub. L. 94–128 substituted "$250,000" for "$100,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 181 of this title.

SEQUOIA AND YOSEMITE NATIONAL PARKS

§ 45a–1. Same; addition of lands authorized.

ELECTRIC POWER DEVELOPMENT PERMITS

Pub. L. 93–522, Dec. 14, 1974, 88 Stat. 1660, provided:

"[Sec. 1]. That the Secretary of the Interior is hereby authorized to issue a permit to occupy and use lands of the United States within Sequoia National Park necessary for the continued operation, maintenance, and use of the hydroelectric project known as the Kaweah Number 3 project of Southern California Edison Company.

"Sec. 2. The term of such permit shall expire not later than the expiration of existing or future licenses granted by the Federal Power Commission to Southern California Edison Company for said Kaweah Number 3 project (Federal Power Commission project numbered 298), but in no event shall the term of such permit extend for any period in excess of ten years following the date of its issuance, unless specifically authorized by law. Such permit shall contain such other terms and conditions as the Secretary of the Interior shall deem necessary for the protection and utilization of Sequoia National Park.

"Sec. 3. Such permit shall specifically recite that the privileges granted thereby are to be exercised in accordance with the Federal Power Act (16 U.S.C. 791(a)–825(u)), and the rules and regulations thereunder which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable.

"Sec. 4. The National Park Service shall, not less than one hundred and eighty days prior to the termination date of such permit, report to the Congress, in writing, with respect to the impact of the operations of the hydroelectric project (known as the Kaweah numbered 3 project of Southern California Edison Company) on the Sequoia National Park."

COLONIAL NATIONAL HISTORICAL PARK

§ 81f. Authorization of appropriation.

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of sections 81, 81a, and 81e to 81i of this title, which shall not exceed the sum of $10,472,000 to be available for all expenses incident to the examination and establishment of the said Colonial National Historical Park and for the acquisition of lands and/or lands and improvements needed for the completion of the park, including the securing of options and other incidental expenses. The area of the Yorktown battlefield, authorized for inclusion in said park, is extended to not to exceed four thousand five hundred acres, and all Government-owned lands within the boundaries of said park as established by presidential proclamation, except those determined by the Secretary of the Interior as not necessary in carrying out the objects of said park are transferred to the administrative jurisdiction and control of the National Park Service. (As amended Oct. 26, 1974, Pub. L. 93–477, title I, § 101(2), 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$10,472,000" for "$2,777,000".

LASSEN VOLCANIC NATIONAL PARK

§ 201. Lassen Volcanic National Park; establishment; boundaries; entries under land laws; indemnity lands.

All those certain tracts, pieces, or parcels of land lying and being situate in the State of California and within the boundaries particularly described as follows, to wit: Beginning at the northwest corner of section 3, township 31, range 6 east, Mount Diablo

meridian, California; thence southerly to the southeast corner of said section; thence easterly to the northeast corner of the northwest quarter of section 11, said township; thence southerly to the southeast corner of the southwest quarter of section 14, said township; thence easterly to the northeast corner of the northwest quarter of section 24, said township; thence southerly to the southeast corner of the southwest quarter of section 25, said township; thence westerly to the southwest corner of section 26, said township; thence southerly to the southeast corner of section 34, said township; thence westerly along the sixth standard parallel north, allowing for the proper offsets, to the northeast corner of section 3, township 30 north, range 6 east; thence southerly to the southeast corner of section 27, said township; thence westerly to the southwest corner of the southeast quarter of section 28, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the southwest corner of the northwest quarter of said section; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of section 20, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the range line between ranges 5 and 6 east; thence southerly along said range line to the southeast corner of township 30 north, range 5 east; thence westerly along the township line between townships 29 and 30 north to the southwest corner of section 33, township 30 north, range 5 east; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of said section 29, said township; thence northerly to the northwest corner of the southeast quarter of said section; thence westerly to the southwest corner of the northwest quarter of said section; thence northerly to the northwest corner of said section; thence westerly to the southwest corner of the southeast quarter of section 20, township 30 north, range 4 east; thence northerly to the northwest corner of the southeast quarter of section 8, said township; thence easterly to the northeast corner of the southwest quarter of section 9, said township; thence northerly to the township line between townships 30 and 31 north; thence easterly along the sixth standard parallel north, allowing for the proper offsets, to the southwest corner of section 33, township 31 north, range 4 east; thence northerly to the northwest corner of section 21, said township; thence easterly to the range line between ranges 4 and 5 east; thence northerly along said range line to the northwest corner of fractional section 18, township 31 north, range 5 east; thence easterly to the southwest corner of section 12, said township; thence northerly to the northwest corner of section 1, said township; thence easterly along the township line between townships 31 and 32 north to the northeast corner of section 3, township 31 north, range 6 east, the place of beginning, are reserved and withdrawn from settlement, occupancy, disposal, or sale, under the laws of the United States, and said tracts are dedicated and set apart as a public park or pleasuring ground for the benefit and enjoyment of the people of the United States under the name and to be known and designated as the Lassen Volcanic National Park; and all persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereinafter provided, shall be considered trespassers and be removed therefrom. Nothing herein contained shall affect any valid claim, location, or entry existing under the land laws of the United States before August 9, 1916, or the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land. No lands located within the park boundaries held prior to August 9, 1916, in private, municipal, or State ownership shall be affected by or subject to the provisions of this section and sections 202, and 203 of this title. No lands within the limits of said park created belonging to or claimed by any railroad or other corporation having or claiming on August 9, 1916, the right of indemnity selection by virtue of any law or contract whatsoever shall be used as a basis for indemnity selection in any State or Territory whatsoever for any loss sustained by reason of the creation of said park. (As amended Oct. 19, 1972, Pub. L. 92–510, § 4, 86 Stat. 918.)

AMENDMENTS

1972—Pub. L. 92–510 struck out provision that "The United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a Government reclamation project.".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201b, 203, 204c, 205a of this title.

GRAND CANYON NATIONAL PARK

§ 223. Repealed. Pub. L. 93–620, § 10(f), Jan. 3, 1975, 88 Stat. 2093.

Section, act Feb. 26, 1919, ch. 44, § 3, 40 Stat. 1177, enumerated occupancy rights of the Havasupai Indians. See section 228i of this title, and Codification note set out thereunder.

§ 227. Utilization of areas for Government reclamation projects.

Whenever consistent with the primary purposes of such park, the Secretary of the Interior is authorized to permit the utilization of those areas formerly within the Lake Mead National Recreation Area immediately prior to enactment of sections 228a to 228j of this title, and added to the park by sections 228a to 228j of this title, which may be necessary for the development and maintenance of a Government reclamation project. (As amended Jan. 3, 1975, Pub. L. 93–620, § 9(b), 88 Stat. 2091.)

AMENDMENTS

1975—Pub. L. 93–620 substituted provisions authorizing utilization of areas formerly within Lake Mead National Recreation Area and added to the Grand Canyon National Park by sections 228a to 228j of this title, for provisions authorizing utilization of areas within the Park.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 221b, 224 of this title.

§ 228a. Enlargement of boundaries; statement of purpose.

It is the object of sections 228a to 228j of this title to provide for the recognition by Congress that the entire Grand Canyon, from the mouth of the Paria River to the Grand Wash Cliffs, including tributary side canyons and surrounding plateaus, is a natural

feature of national and international significance. Congress therefore recognizes the need for, and in sections 228a to 228j of this title provides for, the further protection and interpretation of the Grand Canyon in accordance with its true significance. (Pub. L. 93–620, § 2, Jan. 3, 1975, 88 Stat. 2089.)

SHORT TITLE

Section 1 of Pub. L. 93–620 provided that: "This Act [enacting sections 228a to 228j of this title, amending section 227 of this title, and repealing section 223 of this title] may be cited as the 'Grand Canyon National Park Enlargement Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228b to 228i, 228j of this title.

§ 228b. Same; composition.

(a) Additional lands, waters, and interests therein.

In order to add to the Grand Canyon National Park certain prime portions of the canyon area possessing unique natural, scientific, and scenic values, the Grand Canyon National Park shall comprise, subject to any valid existing rights under the Navajo Boundary Act of 1934, all those lands, waters, and interests therein, constituting approximately one million two hundred thousand acres, located within the boundaries as depicted on the drawing entitled "Boundary Map, Grand Canyon National Park," numbered 113–20, 021 B and dated December 1974, a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Grand Canyon and Marble Canyon National Monuments.

For purposes of sections 228a to 228j of this title, the Grand Caynon National Monument and the Marble Canyon National Monument are abolished.

(c) Study and report to Congress of suitability of lands included within enlarged boundaries; submission date.

The Secretary of the Interior shall study the lands within the former boundaries of the Grand Canyon National Monument commonly known as the Tuckup Point, Slide Mountain, and Jensen Tank areas to determine whether any portion of these lands might be unsuitable for park purposes and whether in his judgment the public interest might be better served if they were deleted from the Grand Canyon National Park. The Secretary shall report his findings and recommendations to the Congress no later than one year from January 3, 1975. (Pub. L. 93–620, § 3, Jan. 3, 1975, 88 Stat. 2090.)

REFERENCES IN TEXT

The Navajo Boundary Act of 1934, referred to in subsec. (a), is act June 14, 1934, ch. 521, 48 Stat. 960, and is not classified to this Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a, 228c to 228i, 228j of this title.

§ 228c. Same; acquisition of lands within enlarged boundaries by donation, purchase, or exchange; transfer of jurisdiction over Federal lands.

(a) Within the boundaries of the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire land and interest in land by donation, purchase with donated or appropriated funds, or exchange.

(b) Federal lands within the boundaries of such park are hereby transferred to the jurisdiction of the Secretary for the purposes of sections 228a to 228j of this title. (Pub. L. 93–620, § 4, Jan. 3, 1975, 88 Stat. 2090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a, 228b, and 228d to 228i, 228j of this title.

§ 228d. Same; acquisition of State of Arizona or local lands by donation or exchange; approval for transfer to United States of Indian trust lands.

Notwithstanding any other provision of sections 228a to 228j of this title (1) land or interest in land owned by the State of Arizona or any political subdivision thereof may be acquired by the Secretary under sections 228a to 228j of this title only by donation or exchange and (2) no land or interest in land, which is held in trust for any Indian tribe or nation, may be transferred to the United States under sections 228a to 228j of this title or for purposes of sections 228a to 228j of this title except after approval by the governing body of the respective Indian tribe or nation. (Pub. L. 93–620, § 5, Jan. 3, 1975, 88 Stat. 2090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228c, 228e to 228i, 228j of this title.

§ 228e. Same; cooperative agreements for protection and unified interpretation of enlarged Grand Canyon; scope of agreements.

In the administration of the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, the Secretary is authorized and encouraged to enter into cooperative agreements with other Federal, State, and local public departments and agencies and with interested Indian tribes providing for the protection and interpretation of the Grand Canyon in its entirety. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretative facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof, to the end that there will be a unified interpretation of the entire Grand Canyon. (Pub. L. 93–620, § 6, Jan. 3, 1975, 88 Stat. 2090.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228d, 228f to 228i, 228j of this title.

§ 228f. Same; preservation and renewal of existing grazing rights within enlarged boundaries; term of renewal.

Where any Federal lands within the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, are legally occupied or utilized on January 3, 1975, for grazing purposes, pursuant to a Federal lease, permit, or license, the Secretary shall permit the persons holding such grazing privileges to continue in the exercise thereof during the term of the lease, permit, or license, and periods of renewal thereafter: *Provided,* That no such renewals shall be extended beyond the period ending ten years from January 3, 1975, except that any present

lease, permit, or license within the boundaries of the Grand Canyon National Monument as abolished by section 228b(b) of this title may be renewed during the life of the present holder which renewals shall terminate upon the death of the present holder. (Pub. L. 93–620, § 7, Jan. 3, 1975, 88 Stat. 2091.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228e, 228g to 228i, 228j of this title.

§ 228g. Same; aircraft or helicopter regulation within enlarged boundaries; procedure for promulgation of administrative rules and regulations.

Whenever the Secretary has reason to believe that any aircraft or helicopter activity or operation may be occurring or about to occur within the Grand Canyon National Park, as enlarged by sections 228a to 228j of this title, including the airspace below the rims of the canyon, which is likely to cause an injury to the health, welfare, or safety of vistors to the park or to cause a significant adverse effect on the natural quiet and experience of the park, the Secretary shall submit to the Federal Aviation Agency, the Environmental Protection Agency pursuant to the Noise Control Act of 1972, or any other responsible agency or agencies such complaints, information, or recommendations for rules and regulations or other actions as he believes appropriate to protect the public health, welfare, and safety or the national environment within the park. After reviewing the submission of the Secretary, the responsible agency shall consider the matter, and after consultation with the Secretary, shall take appropriate action to protect the park and visitors (Pub. L. 93–620, § 8, Jan. 3, 1975, 88 Stat. 2091.)

REFERENCES IN TEXT

The Noise Control Act of 1972, referred to in text, is classified to section 4901 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228f, 228h, 228i, 228j of this title.

§ 228h. Same; construction with existing Colorado River system reclamation provisions.

Nothing in sections 228a to 228j of this title shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of sections 1551 to 1556 of Title 43. (Pub. L. 93–620, § 9(a), Jan. 3, 1975, 88 Stat. 2091.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228g, 228i, 228j of this title.

§ 228i. Same; Havasupai Indian Reservation.

(a) Lands of Havasupai Reservation Addition held in trust by United States; boundaries.

For the purpose of enabling the tribe of Indians known as the Havasupai Indians of Arizona (hereinafter referred to as the "tribe") to improve the social, cultural, and economic life of its members, the lands generally depicted as the "Havasupai Reservation Addition" on the map described in section 228b of this title, and consisting of approximately one hundred and eighty-five thousand acres of land and any improvements thereon, are hereby declared to be held by the United States in trust for the Havasupai Tribe. Such map, which shall delineate a boundary line generally one-fourth of a mile from the rim of the outer gorge of the Grand Canyon of the Colorado River and shall traverse Havasu Creek from a point on the rim at Yumtheska Point to Beaver Falls to a point on the rim at Ukwalla Point, shall be on file and available for public inspection in the Offices of the Secretary, Department of the Interior, Washington, District of Columbia.

(b) Lands held in trust by United States included within Reservation; administration pursuant to laws and regulations applicable to other trust Indian Lands; specific administrative criteria and restrictions.

The lands held in trust pursuant to this section shall be included in the Havasupai Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That—

(1) the lands may be used for traditional purposes, including religious purposes and the gathering of, or hunting for, wild or native foods, materials for paints and medicines;

(2) the lands shall be available for use by the Havasupai Tribe for agricultural and grazing purposes, subject to the ability of such lands to sustain such use as determined by the Secretary;

(3) any areas historically used as burial grounds may continue to be so used;

(4) a study shall be made by the Secretary, in consultation with the Havasupai Tribal Council, to develop a plan for the use of this land by the tribe which shall include the selection of areas which may be used for residential, educational, and other community purposes for members of the tribe and which shall not be inconsistent with, or detract from, park uses and values; *Provided further*, That before being implemented by the Secretary, such plan shall be made available through his offices for public review and comment, shall be subject to public hearings, and shall be transmitted, together with a complete transcript of the hearings, at least 90 days prior to implementation, to the Committees on Interior and Insular Affairs of the United States Congress; and *Provided further*, That any subsequent revisions of this plan shall be subject to the same procedures as set forth in this paragraph;

(5) no commercial timber production, no commercial mining or mineral production, and no commercial or industrial development shall be permitted on such lands: *Provided further*, That the Secretary may authorize the establishment of such tribal small business enterprises as he deems advisable to meet the needs of the tribe which are in accordance with the plan provided in paragraph (4) of this subsection;

(6) nonmembers of the tribe shall be permitted to have access across such lands at locations established by the Secretary in consultation with the Tribal Council in order to visit adjacent parklands, and with the consent of the tribe, may be permitted (i) to enter and temporarily utilize lands within the reservation in accordance with the approved land use plan described in paragraph (4) of this subsection for recreation purposes or

(ii) to purchase licenses from the tribe to hunt on reservation lands subject to limitations and regulations imposed by the Secretary of the Interior; and

(7) except for the uses permitted in paragraphs 1 through 6 of this subsection, the lands hereby transferred to the tribe shall remain forever wild and no uses shall be permitted under the plan which detract from the existing scenic and natural values of such lands.

(c) Establishment, maintenance, and implementation of conservation measures; availability of Federal programs relating to Indians; right of access to lands for implementation of Federal projects, resource management and preservation, and tribal religious, etc., functions.

The Secretary shall be responsible for the establishment and maintenance of conservation measures for these lands, including, without limitation, protection from fire, disease, insects, or trespass and reasonable prevention or elimination of erosion, damaging land use, overgrazing, or pollution. The Secretary of the Interior is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any such measures. Any auhorized Federal programs available to any other Indian tribes to enhance their social, cultural, and economic well-being shall be deemed available to the tribe on these lands so long as such programs or projects are consistent with the purposes of sections 228a to 228j of this title. For these purposes, and for the purpose of managing and preserving the resources of the Grand Canyon National Park, the Secretary shall have the right of access to any lands hereby included in the Havasupai Reservation. Nothing in sections 228a to 228j of this title shall be construed to prohibit access by any members of the tribe to any sacred or religious places or burial grounds, native foods, paints, materials, and medicines located on public lands not otherwise covered in sections 228a to 228j of this title.

(d) Grazing rights on the Raintank Allotment; continuation and renewal.

The Secretary shall permit any person presently exercising grazing privileges pursuant to Federal permit or lease in that part of the Kaibab National Forest designated as the "Raintank Allotment", and which is included in the Havasupai Reservation by this section, to continue in the exercise thereof, but no permit or renewal shall be extended beyond the period ending ten years from January 3, 1975, at which time all rights of use and occupancy of the lands will be transferred to the tribe subject to the same terms and conditions as the other lands included in the reservation in subsection (b) of this section.

(e) Havasupai Use Lands; use for grazing and other traditional purposes subject to regulations.

The Secretary, subject to such reasonable regulations as he may prescribe to protect the scenic, natural, and wildlife values thereof, shall permit the tribe to use lands within the Grand Canyon National Park which are designated as "Havasupai Use Lands" on the Grand Canyon National Park boundary map described in section 228b of this title, and consisting of approximately ninety-five thousand three hundred acres of land, for grazing and other traditional purposes.

(f) Extinguishment of all tribal right, title, and interest in lands not otherwise declared as held in trust or covered by provisions enlarging Grand Canyon.

By the enactment of sections 228a to 228j of this title, the Congress recognizes and declares that all right, title, and interest in any lands not otherwise declared to be held in trust for the Havasupai Tribe or otherwise covered by sections 228a to 228j of this title is extinguished. (Pub. L. 93–620, § 10, Jan. 3, 1975, 88 Stat. 2091.)

CODIFICATION

Provision of subsec. (f) of this section, which repealed section 3 of act of Feb. 26, 1919 (40 Stat. 1177), set out as section 223 of this title, has been omitted from this section as executed. See note set out under former section 223 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228h, 228j of this title.

§ 228i–1. Same; report to President.

Within two years from the date of enactment of this Act the Secretary of the Interior shall report to the President, in accordance with section 1132 (c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national park for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with said section 1132 (c) and (d) of this title. (Pub. L. 93–620, § 11, as added Pub. L. 94–31, June 10, 1975, 89 Stat. 172.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in text, probably means the date of enactment of Pub. L. 94–31, which enacted this section, and was approved June 10, 1975.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228h and 228j of this title.

§ 228j. Same; authorization of appropriations; availability of sums.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 228a to 228j of this title, not to exceed, however, $1,250,000, in the aggregate for the period of the five fiscal years beginning with the fiscal year ending June 30, 1974, for the acquisition of lands and property, and not to exceed $49,000 for the fiscal year ending June 30, 1974, $255,000 for the fiscal year ending June 30, 1975, $265,000 for the fiscal year ending June 30, 1976, and $235,000 for the fiscal year ending June 30, 1977, for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to January 3, 1975. (Pub. L. 93–620, § 12, formerly § 11, Jan. 3, 1975, 88 Stat. 2093, renumbered Pub. L. 94–31, June 10, 1975, 89 Stat. 172.)

CODIFICATION

"June 30, 1974" first appearing in text of section, was in the original, "June 30, 1904." The typographical error was

corrected to conform to the apparent intent of the Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 227, 228a to 228i of this title.

CUMBERLAND GAP NATIONAL HISTORICAL PARK

§§ 261 to 264.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 267 of this title.

§ 266. Authorization of appropriations for acquisition of additional lands.

For the acquisition of lands authorized in section 267 of this title, there are authorized to be appropriated such sums as may be necessary, but not more than $427,500. (Pub. L. 93–457, title I, § 101(3), Oct. 26, 1974, 88 Stat. 1445.)

§ 267. Authority of Secretary to acquire additional lands.

Notwithstanding the provisions of sections 261 to 264 of this title, the Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange not to exceed 60 acres of land or interests in land located in Bell County, Kentucky, and Claiborne County, Tennessee, for addition to and inclusion in the said national historical park which, upon acquisition, shall become a part of the Cumberland National Historical Park subject to the laws, rules, and regulations governing such park. (Pub. L. 93–477, title III, § 301(2), Oct. 26, 1974, 88 Stat. 1446.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 266 of this title.

CANYONLANDS NATIONAL PARK

§ 271. Canyonlands National Park; establishment; description of area.

In order to preserve an area in the State of Utah possessing superlative scenic, scientific, and archeologic features for the inspiration, benefit, and use of the public, there is hereby established the Canyonlands National Park which, subject to valid existing rights, shall comprise the area generally depicted on the drawing entitled "Boundary Map, Canyonlands National Park, Utah", numbered 164–91004 and dated June 1970, which shows the boundaries of the park having a total of approximately three hundred and thirty-seven thousand two hundred and fifty-eight acres. The map is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. (As amended Pub. L. 92–154, § 1(a), Nov. 12, 1971, 85 Stat. 421.)

AMENDMENTS

1971—Pub. L. 92–154 substituted provision respecting revision of boundaries of the park and referring to Boundary Map on file and available for public inspection for depiction of the park area on the drawing, for prior specific detailed description of the area.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271d, 271f, 271g of this title.

§ 271a. Same; acquisition of lands; authority of Secretary; exchange of property; cash equalization payments; transfer from Federal agency to administrative jurisdiction of Secretary; lands subject to reclamation and power withdrawals as part of park.

Within the area which lies within the boundaries of the park, the Secretary of the Interior is authorized to acquire lands and interests in lands by such means as he may deem to be in the public interest. The Secretary may accept title to any non-Federal property within the park, including State-owned school sections and riverbed lands, and in exchange therefor he may convey to the grantor of such property any federally owned property under his jurisdiction within the State of Utah, notwithstanding any other provision of law. The properties so exchanged shall be of the same classification, as near as may be, and shall be of approximately equal value, and the Secretary shall take administrative action to complete transfer on any lands in a proper application by the State of Utah on or before the expiration of one hundred twenty days following the date of enactment of this Act or any amendment thereto: *Provided,* That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged. Federal property located within the boundaries of the park may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior, without consideration. for use by him in carrying out the purposes of sections 271 to 271g of this title. Any lands within the boundaries of the park which are subject to Bureau of Reclamation or Federal Power Commission withdrawals are hereby freed and exonerated from any such withdrawal and shall, on September 12, 1964, become a part of the Canyonlands National Park subject to no qualifications except those imposed by sections 271 to 271g of this title or any amendment thereto. (As amended Pub. L. 92–154, § 1(b), Nov. 12, 1971, 85 Stat. 421.)

REFERENCES IN TEXT

Date of enactment of this Act or any amendment thereto, referred to in the text, means Sept. 12, 1964, date of enactment of Pub. L. 88–590, originally classified to sections 271 to 271d of this title, and Nov. 12, 1971, date of enactment of Pub. L. 92–154, amendatory of Pub. L. 88–590 and classified to sections 271 to 271b and 271e to 271g of this title.

AMENDMENTS

1971—Pub. L. 92–154 deleted following "Within the area" the text "described in section 271 of this title", inserted in the third sentence following "the date of enactment of this Act" the words "or any amendment thereto", and inserted in the fifth sentence following "sections 271 to 271g of this title" the words "or any amendment thereto".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271d, 271f, 271g of this title.

§ 271b. Same; grazing privileges; right of occupancy or use for fixed term of years; renewal.

Where any Federal lands included within the Canyonlands National Park are legally occupied or utilized on the date of approval of this Act or any amendment thereto for grazing purposes, pursuant

to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter. (As amended Pub. L. 92–154, § 1(c), Nov. 12, 1971, 85 Stat. 421.)

REFERENCES IN TEXT

Date of approval of this Act or any amendment thereto, referred to in the text, means Sept. 12, 1964, date of enactment of Pub. L. 88–590, originally classified to sections 271 to 271d of this title, and Nov. 12, 1971, date of approval of Pub. L. 92–154, amendatory of Pub. L. 88–590 and classified to sections 271 to 271b and 271e to 271g of this title.

AMENDMENTS

1971—Pub. L. 92–154 inserted following "date of approval of this Act" the words "or any amendment thereto".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271d, 271f, 271g of this title.

§ 271c. Same; access roads.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271f, 271g of this title.

§ 271d. Same; administration, protection, and development.

Subject to the provisions of sections 271 to 271g of this title, the administration, protection, and development of the Canyonlands National Park, as established pursuant to such sections, shall be exercised by the Secretary of the Interior in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented. (Pub. L. 88–590, § 5, Sept. 12, 1964, 78 Stat. 939.)

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271f, 271g of this title.

§ 271e. Same; report to President.

Within three years from November 12, 1971, the Secretary of the Interior shall report to the President, in accordance with section 1132 (c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national park for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132 (c) and (d) of this title. (Pub. L. 88–590, § 6, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271f, 271g of this title.

§ 271f. Same; road alinements, study; report to Congress.

(a) The Secretary of the Interior, in consultation with appropriate Federal Departments and appropriate agencies of the State and its political subdivisions, shall conduct a study of proposed road alinements within and adjacent to the Canyonlands National Park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of sections 271 to 271g of this title as well as to connect with roads of ingress and egress to the area.

(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress within two years of November 12, 1971, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study. (Pub. L. 88–590, § 7, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271g of this title.

§ 271g. Same; authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 271 to 271g of this title, not to exceed, however, $16,000 for the acquisition of lands and not to exceed $5,102,000 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development in the areas added by section 271 of this title. (Pub. L. 88–590, § 8, as added Pub. L. 92–154, § 1(d), Nov. 12, 1971, 85 Stat. 421.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 271a, 271f of this title.

ARCHES NATIONAL PARK [NEW]

§ 272. Arches National Park.

(a) Establishment.

Subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Arches National Park, Utah," numbered RPSSC–138–20, 001E and dated September 1969, are hereby established as the Arches National Park (hereinafter referred to as the "park"). Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Arches National Monument; funds of monument available for park; administration of lands excluded from monument.

The Arches National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by sections 272 to 272f of this title shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States. (Pub. L. 92–155, § 1, Nov. 12, 1971, 85 Stat. 422.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272a, 272c, 272e, 272f of this title.

§ 272a. Same; acquisition of property; authority of Secretary; State property.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds,

transfer from any Federal agency, exchange or otherwise, the lands and interests in lands described in section 272 of this title, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision. (Pub. L. 92–155, § 2, Nov. 12, 1971, 85 Stat. 422.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272c, 272e, 272f of this title.

§ 272b. Same; grazing privileges; right of occupancy or use for fixed term of years; renewal.

Where any Federal lands included within the park are legally occupied or utilized on November 12, 1971, for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter. (Pub. L. 92–155, § 3, Nov. 12, 1971, 85 Stat. 422.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272c, 272e, 272f of this title.

§ 272c. Same; livestock trails, watering rights; driveway designation and regulation.

Nothing in sections 272 to 272f of this title shall be construed as affecting in any way any rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to November 12, 1971, to trail their herds on traditional courses used by them prior to November 12, 1971, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided,* That the Secretary may designate driveways and promulgate reasonable regulations providing for the use of such driveways. (Pub. L. 92–155, § 4, Nov. 12, 1971, 85 Stat. 422.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272e, 272f of this title.

§ 272d. Same; administration, protection, and development of park; report to President.

(a) The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of sections 1 and 2 to 4 of this title.

(b) Within three years from November 12, 1971, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act, his recommendations as the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act. (Pub. L. 92–155, § 5, Nov. 12, 1971, 85 Stat. 422.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (b), is classified to chapter 23 of this title.

Subsections 3(c) and 3(d) of the Wilderness Act, referred to in subsec. (b), are classified to section 1132 (c) and (d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272c, 272e, 272f of this title.

§ 272e. Same; road alinements, study; report to Congress.

(a) The Secretary, in consultation with appropriate Federal departments and appropriate agencies of the State and its political subdivisions shall conduct a study of proposed road alinements within and adjacent to the park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purpose of sections 272 to 272f of this title as well as to connect with roads of ingress and egress to the area.

(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress within two years of November 12, 1971, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study. (Pub. L. 92–155, § 6, Nov. 12, 1971, 85 Stat. 423.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272c, 272f of this title.

§ 272f. Same; authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 272 to 272f of this title, not to exceed, however, $125,000 for the acquisition of lands and interests in lands and not to exceed $1,031,800 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to November 12, 1971. (Pub. L. 92–155, § 7, Nov. 12, 1971, 85 Stat. 423.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 272, 272c, 272e of this title.

CAPITOL REEF NATIONAL PARK [NEW]

§ 273. Capitol Reef National Park.

(a) Establishment.

Subject to valid existing rights, the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Boundary Map, Proposed Capitol Reef National Park, Utah," numbered 158–91,002, and dated January 1971, are hereby established as the Capitol Reef National Park (hereinafter referred to as the "park"). Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) Abolition of Capitol Reef National Monument; funds of monument available for park; administration of lands excluded from monument.

The Capitol Reef National Monument is hereby abolished, and any funds available for purposes of the monument shall be available for purposes of the park. Federal lands, waters, and interests therein excluded from the monument by sections 273 to 273f

of this title shall be administered by the Secretary of the Interior (hereinafter referred to as the "Secretary") in accordance with the laws applicable to the public lands of the United States. (Pub. L. 92–207, § 1, Dec. 18, 1971, 85 Stat. 739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273a, 273c, 273e, 273f of this title.

§ 273a. Same; acquisition of property; authority of Secretary; State property.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise, the lands and interests in lands described in section 273 of this title, except that lands or interests therein owned by the State of Utah, or any political subdivision thereof, may be acquired only with the approval of such State or political subdivision. (Pub. L. 92–207, § 2, Dec. 18, 1971, 85 Stat. 739.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273c, 273e, 273f, of this title.

§ 273b. Same; grazing privileges; right of occupancy or use for fixed term of years; renewal.

Where any Federal lands included within the park are legally occupied or utilized on December 18, 1971, for grazing purposes, pursuant to a lease, permit, or license for a fixed term of years issued or authorized by any department, establishment, or agency of the United States, the Secretary of the Interior shall permit the persons holding such grazing privileges or their heirs to continue in the exercise thereof during the term of the lease, permit, or license, and one period of renewal thereafter. (Pub. L. 92–207, § 3, Dec. 18, 1971, 85 Stat. 740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273c, 273e, 273f of this title.

§ 273c. Same; livestock trails, watering rights; driveway regulations.

Nothing in sections 273 to 273f of this title shall be construed as affecting in any way rights of owners and operators of cattle and sheep herds, existing on the date immediately prior to December 18, 1971, to trail their herds on traditional courses used by them prior to December 18, 1971, and to water their stock, notwithstanding the fact that the lands involving such trails and watering are situated within the park: *Provided,* That the Secretary may promulgate reasonable regulations providing for the use of such driveways. (Pub. L. 92–207, § 4, Dec. 18, 1971, 85 Stat. 740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273e, 273f of this title.

§ 273d. Same; administration, protection, and development of park; easements and rights-of-way; report to President.

(a) The National Park Service, under the direction of the Secretary, shall administer, protect, and develop the park, subject to the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented.

(b) The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the park area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the park.

(c) Within three years from December 18, 1971, the Secretary of the Interior shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of any area within the park for preservation as wilderness, and any designation of any such area as a wilderness shall be in accordance with said Wilderness Act. (Pub. L. 92–207, § 5, Dec. 18, 1971, 85 Stat. 740.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (c), is classified to chapter 23 of this title.

Subsections 3(c) and 3(d) of the Wilderness Act, referred to in subsec. (c), are classified to section 1132(c) and (d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273c, 273e, 273f of this title.

§ 273e. Same; road alinements, study; report to Congress.

(a) The Secretary, in consultation with appropriate Federal departments and appropriate agencies of the State and its political subdivisions shall conduct a study of proposed road alinements within and adjacent to the park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of sections 273 to 273f of this title as well as to connect with roads of ingress and egress to the area.

(b) A report of the findings and conclusions of the Secretary shall be submitted to the Congress within two years of December 18, 1971, including recommendations for such further legislation as may be necessary to implement the findings and conclusions developed from the study. (Pub. L. 92–207, § 6, Dec. 18, 1971, 85 Stat. 740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273c, 273f of this title.

§ 273f. Same; authorization of appropriations.

There are hereby authorized to be appropriated such sums as may be necessary to cary out the purposes of sections 273 to 273f of this title, not to exceed, however, $423,000 for the acquisition of lands and interests in lands and not to exceed $1,052,700 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to December 18, 1971. (Pub. L. 92–207, § 7, Dec. 18, 1971, 85 Stat. 740.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 273, 273c, 273e of this title.

SAN JUAN ISLAND NATIONAL HISTORICAL PARK

§§ 282 to 282c.

CODIFICATION

The name of the park provided for in sections 282 to 282c of this title is the San Juan Island National Historical Park.

GUADALOUPE MOUNTAINS NATIONAL PARK

§ 283a. Acquisition of lands.

* * * * *

(b) Adjacent or vicinal land; exchange of property; cash equalization payments.

In order to facilitate the acquisition of privately owned lands in the park by exchange and avoid the payment of severance costs, the Secretary of the Interior may acquire approximately 4,667 acres of land or interests in land which lie adjacent to or in the vicinity of the park. Land so acquired outside the park boundary may be exchanged by the Secretary on an equal-value basis, subject to such terms, conditions, and reservations as he may deem necessary, for privately owned land located within the park. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged. In order to provide for an adequate entrance road into the McKittrick Canyon area of the park, the Secretary may accept title to and interests in lands comprising a right-of-way for a road or roads outside of the boundary of the park from United States Highway numbered 62 and 180 to the park boundary, and in exchange therefor he may convey title to and interests in lands comprising a right-of-way from said highway to the boundary which have been donated to the United States. The Secretary may accept cash from or pay cash to the grantor in such exchange in order to equalize the values of the properties exchanged. Lands and interests in lands comprising the right-of-way acquired pursuant to this subsection shall be administered as part of the park. (As amended Pub. L. 94–174, Dec. 23, 1975, 89 Stat. 1029.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94–174 added provisions relating to the exchange of lands in order to provide for an adequate entrance road into the McKittrick Canyon area of the park.

WOLF TRAP FARM PARK

§ 284b. Authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary, but not in excess of $5,473,000, to carry out the purposes of sections 284 to 284b of this title. (As amended Pub. L. 92–272, title II, § 201(4), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased the maximum sums authorized to be appropriated from not in excess of $600,000 to not in excess of $5,473,000.

MOUNT McKINLEY NATIONAL PARK

§ 353a. Same; accommodations for housing, feeding, and transporting visitors and residents.

In order to provide for the adequate housing, feeding, and transportation of the visiting public and residents of Mount McKinley National Park in Alaska, there is authorized to be appropriated out of the general funds of the Treasury a sum not to exceed the sum of $30,000; and the President of the United States be, and he is, authorized and empowered, through such agency or agencies as he may designate, to construct, reconstruct, maintain, and operate lodges, and other structures and appurtenances incident thereto; to purchase, upon such terms as he may deem proper, the personal property, structures, and buildings of the Mount McKinley Tourist and Transportation Company that are operated and used in said park under contract authorization by the Department of the Interior, and the equities of the Mount McKinley Tourist and Transportation Company in the business developed and conducted in connection therewith; to purchase or otherwise acquire motor-propelled passenger-carrying vehicles and all necessary fixtures and equipment, and to operate, repair, recondition, and maintain the same in order to carry out the purpose of this section and sections 975 to 975g of Title 43, notwithstanding the restrictions imposed by law with regard to the purchase, maintenance, repair, or operation of motor-propelled, passenger-carrying vehicles; and to operate or sell the equipment and facilities herein authorized, directly or by contract or contracts with any individual, company, firm, or corporation, under such schedule of rates, terms, and conditions, as he may deem proper. (Mar. 12, 1914, ch. 37, § 1, as added Mar. 29, 1940, ch. 74, 54 Stat. 80.)

CODIFICATION

Section is part of section 1 of act Mar. 12, 1914, ch. 37, 38 Stat. 305, as added by act Mar. 29, 1940. Remainder of section 1 is set out as sections 975 to 975d and 975f of Title 43, Public Lands.

VIRGIN ISLANDS NATIONAL PARK

§§ 398, 398a, 398c, 398d.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 48 of section 1705.

§ 398f. Authorization of appropriations.

There are authorized to be appropriated such sums, but not more than $12,250,000, as are necessary to acquire lands pursuant to section 398d of this title. (As amended Pub. L. 93–477, title I, § 101(10), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$12,250,000' for "$1,250,000".

INDEPENDENCE NATIONAL HISTORICAL PARK

§ 407p. Establishment of advisory commission; composition, appointment, and duties.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 407r. Authorization of appropriations.

For the purpose of acquiring the property described in section 407m of this title, there is authorized to be appropriated not to exceed the sum of $12,792,000. Funds appropriated pursuant to sections 407m and 407n to 407s of this title shall be available for any expenses incidental to acquisition of property as prescribed by said sections, including the employment of the necessary services in the District of Columbia, and including to the extent deemed necessary by the Secretary of the Interior, the employment without regard to the civil-service laws of such experts and other officers and employees as are necessary to carry out the provisions of sections 407m and 407n to 407s of this title efficiently and in the public interest. (As amended Oct. 26, 1974, Pub. L. 93–477, title I, § 101(5), 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$12,792,000" for "$11,200,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407n, 407s of this title.

MORRISTOWN NATIONAL HISTORICAL PARK

§ 409g. Additional lands.

In order to preserve for the benefit and inspiration of the public certain lands historically associated with the winter encampment of General George Washington's Continental Army at Jockey Hollow in 1779 and 1780, and to facilitate the administration and interpretation of the Morristown National Historical Park, the Secretary of the Interior is authorized to procure by purchase, donation, purchase with appropriated funds, or otherwise, not to exceed 465 acres of land and interests therein which 465 acres shall include Stark's Brigade campsite and other lands necessary for the proper administration and interpretation of the Morristown National Historical Park: *Provided*, That title to the property known as the Cross estate may not be accepted until the property is vacant. (As amended Pub. L. 93–477, title III, § 301(6), Oct. 26, 1974, 88 Stat. 1447.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "465 acres" for "two hundred and eighty-one acres", wherever appearing therein, and added the proviso relating to property known as the Cross estate.

AUTHORIZATION OF APPROPRIATIONS FOR ADDITIONAL LANDS

Section 3 of Pub. L. 88–601, as amended by Pub. L. 93–477, title I, § 101(8), Oct. 26, 1974, 88 Stat. 1445, provided that: "There are authorized to be appropriated such sums, but not more than $2,111,000 for acquisition of lands and interests in land, as may be necessary to carry out the purposes of this Act [this section and section 409h of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 409h of this title.

BOSTON NATIONAL HISTORICAL PARK [NEW]

§ 410z. Establishment.

(a) Acquisition of properties by donation or with donated funds.

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historic structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") may, in accordance with the provisions of sections 410z to 410z–5 of this title, acquire by donation or by purchase with donated funds, all lands and improvements thereon or interests therein comprising the following described areas:

(1) Faneuil Hall, located at Dock Square, Boston;

(2) Paul Revere House, 19 North Square, Boston;

(3) The area identified as the Old North Church area, 193 Salem Street, Boston;

(4) The Old State House, Washington and State Streets, Boston;

(5) Bunker Hill, Breeds Hill, Boston;

(6) Old South Meeting House, Milk and Washington Streets, Boston; and

(7) Charlestown Navy Yard.

(b) Acquisition of properties with appropriated funds.

In the event that the properties described in this section are not donated to the United States or purchased with donated funds, they may be acquired by the Secretary with appropriated funds: *Provided*, That, except for privately held lands within the Charlestown Navy Yard as described in subsection (d) of this section, the Secretary shall not acquire any such properties by eminent domain so long as he determines that a binding, written cooperative agreement, assuring the preservation and historical integrity of such properties remains in force and effect. Lands owned by the Commonwealth of Massachusetts, or any of its political subdivisions, may be acquired only by donation.

(c) Publication of notice of establishment.

At such time as the Secretary determines that sufficient lands, improvements, and interests therein have been acquired or that cooperative agreements satisfying the preservation and historical objective of sections 410z to 410z–5 of this title have been executed, he may establish the Boston National Historical Park by publication of notice to that effect in the Federal Register, together with a detailed description or map setting forth the properties included therein.

(d) Charlestown Navy Yard.

As used in this section, the Charlestown Navy Yard shall include the United States Ship Constitution and the lands generally depicted on the map entitled "Boundary Map: Charlestown Naval Shipyard—U.S.S. Constitution, Boston National Historical Park", numbered BONA 20,000 and dated March 1974 which shall be on file and available in the offices of the Director of the National Park Service, Department of the Interior, Washington, D.C. All right, title, and interest in the Federal properties and improvements included therein shall be transferred to the Secretary of the Interior: *Provided*, That he may, by written agreement with the Secretary of the Navy, permit the continued use of any such buildings and facilities as the Secretary of the Interior determines to be necessary for the preservation and maintenance of the Constitution, which agreement shall

provide that the Department of the Navy shall transfer to the Department of the Interior funds sufficient to cover the costs attributable to the functions and services which are provided by the Department of the Interior. The Secretary shall consult with representatives of the city of Boston and the Commonwealth of Massachusetts concerning the development of suitable transportation plans consistent with the purposes for which the Navy Yard was included in the historical park. (Pub. L. 93–431, § 2, Oct. 1, 1974, 88 Stat. 1184.)

SHORT TITLE

Section 1 of Pub. L. 93–431 provided: "That this Act [enacting sections 410z to 410z–5 of this title] may be cited as the 'Boston National Historical Park Act of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z–1, 410z–2, 410z–4, 410z–5 of this title.

§ 410z–1. Acquisition of additional sites.

(a) Studies.

In addition to the properties described in section 410z of this title, the Secretary shall study the properties described in this section to determine the feasibility and suitability of including them within the Boston National Historical Park. In making such studies, he may enter into tentative agreements with any owners thereof for their inclusion in said park and he may enter into options, for a nominal consideration, for the purchase of such properties, but no additional properties may be added to the park except by an act of the Congress. Studies shall be made of the following properties:

(1) Boston Common;

(2) Dillaway-Thomas House;

(3) Thomas Crease House (old Corner Book Store);

(4) Dorchester Heights; and

(5) the following burying grounds: King's Chapel, Granary, and Copp's Hill.

(b) Cooperative agreements authorized.

In furtherance of the general purposes of sections 410z to 410z–5 of this title as prescribed in section 410z of this title, the Secretary is authorized to enter into cooperative agreements with the city of Boston, the Commonwealth of Massachusetts, or any private organization to mark, interpret, restore, and/or provide technical assistance for the preservation and interpretation of any properties listed in section 410z of this title, or portions thereof, which, in his opinion, would best be preserved in private, municipal, or State ownership, in connection with the Boston National Historical Park. Such agreements shall contain, but shall not be limited to, provisions that the Secretary, through the National Park Service, shall have right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, that no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements, except that no limitation or control of any kind over the use of any such properties customarily used for church purposes shall be imposed by any agreement. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, and maintenance of such historic properties.

(c) Identification and marking of significant historical sites.

The Secretary may identify other significant sites of the colonial and Revolutionary periods of American history in the city of Boston, Massachusetts, and its environs, which are related to the historical park created by sections 410z to 410z–5 of this title, and, with the consent of the owner or owners thereof, may mark them appropriately and make reference to them in any interpretive literature. (Pub. L. 93–431, § 3, Oct. 1, 1974, 88 Stat. 1185.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z, 410z–2, 410z–4 of this title.

§ 410z–2. Boston National Historical Park Advisory Commission.

(a) Establishment; membership.

There is established a Boston National Historical Park Advisory Commission (hereinafter referred to as the "Commission") which shall be composed of members appointed by the Secretary as follows:

(1) Three members appointed from recommendations submitted by the Governor of Massachusetts;

(2) Three members appointed from recommendations submitted by the mayor of the city of Boston; and

(3) One member to represent each owner with which the Secretary has concluded a cooperative agreement pursuant to section 410z–1 of this title, to be appointed from recommendations submitted by each such owner.

(b) Termination of Commission.

The Commission shall terminate ten years from the date of establishment of the Boston National Historical Park.

(c) Vacancies; chairman.

A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment (and for the balance of the unexpired term). The Chairman of the Commission shall be designated by the Secretary.

(d) Majority rule.

The Commission shall act and advise by affirmative vote of a majority of its members.

(e) Consultation between Secretary and Commission.

The Secretary or his designee shall from time to time, but at least semiannually, consult with the Commission with respect to matters relating to the development of the Boston National Historical Park.

(f) Compensation; payment of expenses.

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under sections 410z to 410z–5 of this title upon presentation of vouchers signed by the Chairman. (Pub. L. 93–431, § 4, Oct. 1, 1974, 88 Stat. 1185.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z, 410z–1, 410z–4 of this title.

§ 410z–3. Visitor center.

The Secretary may acquire property or any interest therein by donation, purchase, or exchange for the visitor center, and notwithstanding any other provision of law, funds appropriated for the development and operation of the visitor center may be expended on property in which the Secretary has acquired less than the fee simple interest therein, including a leasehold interest. (Pub. L. 93–431, § 5, Oct. 1, 1974, 88 Stat. 1186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z to 410z–2, 410z–4 of this title.

§ 410z–4. Administration.

When established as provided in section 410z of this title, the Boston National Historical Park shall be administered by the Secretary in accordance with the provisions of sections 410z to 410z–5 of this title, sections 1 and 2 to 4 of this title, as amended and supplemented, and sections 461 to 467 of this title. (Pub. L. 93–431, § 6, Oct. 1, 1974, 88 Stat. 1186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z to 410z–2 of this title.

§ 410z–5. Authorization of appropriations.

For the acquisition of lands or interests in lands designated by section 410z of this title, as components of the Boston National Historical Park, there is authorized to be appropriated not to exceed $2,740,000. For development of the components designated as paragraphs 1 through 6 in section 410z of this title, there is authorized to be appropriated not more than $12,818,000. For the development of the component designated as paragraph 7 in section 410z of this title, there is authorized to be appropriated not more than $11,500,000. (Pub. L. 93–431, § 7, Oct. 1, 1974, 88 Stat. 1186.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z to 410z–2, 410z–4 of this title.

NATIONAL MILITARY PARKS

§ 422a–1. Same; acquisition of property.

The Secretary of the Interior is authorized, in his discretion, to acquire by donation, purchase, or exchange lands, buildings, structures, and other property, or interests therein, which he may determine to be of historical interest in connection with the Moores Creek National Military Park, the title to such property or interests to be satisfactory to the Secretary of the Interior: *Provided,* That the area acquired pursuant to this section shall not exceed one hundred acres. All such property and interests, upon acquisition by the Federal Government, shall be a part of the Moores Creek National Military Park and shall be subject to all laws and regulations applicable thereto. (Sept. 27, 1944, ch. 417, § 1, 58 Stat. 746, amended Oct. 26, 1974, Pub. L. 93–477, title IV, § 402, 88 Stat. 1447.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "acquire by donation, purchase, or exchange" for "accept in behalf of the United States donations of", and substituted "acquired" for "to be accepted".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 422a–2 of this title.

§ 422a–2. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of section 422a–1 of this title, but not more than $243,000 shall be appropriated for the acquisition of lands and interests in lands and not more than $325,000 shall be appropriated for development. (Sept. 27, 1944, ch. 417, § 2, as added Oct. 26, 1974, Pub. L. 93–477, title I, § 101(7), 88 Stat. 1445.)

§ 428m. Same; appropriation.

There is authorized to be appropriated the sum of not to exceed $454,000 for the purpose of acquiring lands, interests in lands, and improvements thereon as may be necessary for carrying out sections 428k to 428*o* of this title. (As amended Pub. L. 92–272, title I, § 101(5), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased the authorization of appropriations from a sum not to exceed $226,000 to a sum not to exceed $454,000.

§ 430*oo*. Same; acquisition of lands for preservation, protection and improvement; limitation.

The Secretary of the Interior is authorized to acquire such lands and interests in land and to enter into such agreements with the owners of land on behalf of themselves, their heirs and assigns with respect to the use thereof as the Secretary finds necessary to preserve, protect and improve the Antietam Battlefield comprising approximately 1,800 acres in the State of Maryland and the property of the United States thereon, to assure the public a full and unimpeded view thereof, and to provide for the maintenance of the site (other than those portions thereof which are occupied by public buildings and monuments and the Antietam National Cemetery) in, or its restoration to, substantially the condition in which it was at the time of the battle of Antietam. Not more than 600 acres of land, however, shall be acquired in fee by purchase or condemnation, but neither this limitation nor any other provision of law shall preclude such acquisition of the fee title to other lands and its immediate reconveyance to the former owner with such covenants, restrictions, or conditions as will accomplish the purposes of this section: *Provided,* That the cost to the Government of any such transaction shall not exceed the reasonable value of the covenants, restrictions, or conditions thereby imposed on the property. Any acquisition authorized by this section may be made without regard to the limitation set forth in the proviso contained in section 430nn of this title. (As amended Pub. L. 93–608, § 1(11), Jan. 2, 1975, 88 Stat. 1969.)

AMENDMENTS

1975—Pub. L. 93–608 struck out requirement that Secretary report to Congress at least once each year on any acquisition made or agreement entered into under provisions of this section.

§ 430tt. Same; authorization of appropriation.

There are authorized to be appropriated such sums, but not more than $722,000 as are necessary to carry out the provisions of sections 430pp to 430tt

of this title. (As amended Pub. L. 93–477, title I, § 101(4), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$722,000" for "$115,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 430pp, 430qq of this title.

NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

§ 431. National monuments; reservation of land; relinquishment of private claims.

ARCHES NATIONAL MONUMENT

The Arches National Monument established by Proc. No. 1875, 46 Stat. 2988, was abolished and funds of monument made available to Arches National Park by provisions of Pub. L. 92–155, § 1, Nov. 12, 1971, 85 Stat. 422, classified to section 272 of this title.

CAPITOL REEF NATIONAL MONUMENT

The Capitol Reef National Monument established by Proc. No. 2246, 50 Stat. 1856, was abolished and funds of monument made available to Capitol Reef National Park by provisions of Pub. L. 92–207, § 1, Dec. 18, 1971, 85 Stat. 739, classified to section 273 of this title.

FOSSIL BUTTE NATIONAL MONUMENT

The Fossil Butte National Monument, Wyoming, was authorized by Pub. L. 92–537, Oct. 23, 1972, 86 Stat. 1069.

HOHOKAM PIMA NATIONAL MONUMENT

The Hohokam Pima National Monument, Arizona, was authorized by Pub. L. 92–525, Oct. 21, 1972, 86 Stat. 1047.

JOHN DAY FOSSIL BEDS NATIONAL MONUMENT

John Day Fossil Beds National Monument, Oregon, was authorized by Pub. L. 93–486, title I, § 101(a)(2), Oct. 26, 1974, 88 Stat. 1461.

SITKA NATIONAL MONUMENT

The Sitka National Monument, Alaska, established by Proc. No. 959, 36 Stat. 2601, including additional lands commemorating czarist Russia's exploration and colonization of Alaska and the Russian mission, was redesignated the Sitka National Historical Park by Pub. L. 92–501, Oct. 18, 1972, 86 Stat. 904.

NATIONAL MEMORIALS

National Memorial	*Authorization*
Benjamin Franklin National Memorial, Pa.	Designation of Benjamin Franklin Memorial Hall as National Memorial by Pub. L. 92–551, Oct. 25, 1972, 86 Stat. 1164.
Father Marquette National Memorial, Michigan	Authorized by Pub. L. 94–160, Dec. 20, 1975, 89 Stat. 848.

SEABEES OF THE UNITED STATES NAVY MEMORIAL

Authorized by Pub. L. 92–422, Sept. 18, 1972, 86 Stat. 678.

§ 433a. Perry's Victory and International Peace Memorial; establishment.

The President of the United States is authorized to establish by proclamation the following-described Government lands, together with the Perry's Victory Memorial proper, its approaches, retaining walls, and all buildings, structures, and other property thereon, situated in Put-in-Bay Township, South Bass Island, Ottawa County, Lake Erie, State of Ohio, as the "Perry's Victory and International Peace Memorial", for the preservation of the historical associations connected therewith, to inculcate the lessons of international peace by arbitration and disarmament, and for the benefit and enjoyment of the people: Commencing at the intersection of the middle line of Delaware Avenue and Chapman Avenue, in the village of Put-in-Bay, and running thence south eighty-eight degrees fifty-nine minutes east in the middle line of said Delaware Avenue, and the same extended four hundred and ninety-five feet to Lake Erie; thence north forty-nine degrees fifty-nine minutes east along said lake shore three hundred and forty-six feet; thence north forty-three degrees fourteen minutes east along said lake shore two hundred and twelve feet; thence north fifty-three degrees thirteen minutes east four hundred feet along said lake shore; thence north forty-six degrees six minutes west about seven hundred and thirty feet to Lake Erie; thence southwesterly and westerly along said lake shore to the middle line, extended, of said Chapman Avenue; thence south one degree thirty minutes west along said middle line, and the same extended, about five hundred and twenty feet to the place of beginning, and containing fourteen and twenty-five one-hundredths acres of land and known as a part of lots numbered 1 and 2, range south of county road, and a part of lot numbered 12, East Point, in South Bass Island, in the township of Put-in-Bay, county of Ottawa, State of Ohio. (As amended Oct. 26, 1972, Pub. L. 92–568, § 1, 86 Stat. 1181.)

CHANGE OF NAME

"Perry's Victory and International Peace Memorial" substituted for "Perry's Victory and International Peace Memorial National Monument" to conform to the redesignation provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 433, 433c, 433f, 433f–1 of this title.

§ 433b. Same; administration.

The administration, protection and development of the aforesaid peace memorial shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1 and 2 to 4 of this title. (As amended Oct. 26, 1972, Pub. L. 92–568, § 1. 86 Stat. 1181.)

CHANGE OF NAME

"Peace memorial" substituted for "national monument" to conform to the redesignation of Perry's Victory and International Peace Memorial National Monument as Perry's Victory and International Peace Memorial provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 433f of this title.

§ 433c. Same; acceptance of donations of lands and funds; acquisition of land.

After the said peace memorial has been established as provided in section 433a of this title the Secretary of the Interior is authorized to accept donations of land, interests in land, buildings, structures, and other property as may be donated for the extension and improvement of the said peace memorial, and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States out of any donated funds by purchase when purchasable at prices deemed by him reasonable, otherwise by condemnation

under the provisions of sections 257 and 258 of Title 40, such tracts of land within the said peace memorial as may be necessary for the completion thereof. The Secretary of the Interior is authorized to purchase with appropriated funds not to exceed four acres of land, or interests in land, for addition to the Perry's Victory and International Peace Memorial. (As amended Oct. 26, 1972, Pub. L. 92–568, §§ 1, 2, 86 Stat. 1181, 1182.)

AMENDMENTS

1972—Pub. L. 92–568, § 2, authorized acquisition of an additional four acres of land.

CHANGE OF NAME

"Peace memorial" substituted for "national monument" to conform to the redesignation of Perry's Victory and International Peace Memorial National Monument as Perry's Victory and International Peace Memorial provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of Pub. L. 92–586 provided that: There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [enacting section 433f–1, amending sections 433a to 433c and 433e, and repealing section 433d of this title, and enacting provisions set out as a note hereunder], but not more than $370,000 shall be appropriated for the acquisition of lands and interests in lands and not more than $5,177,000 shall be appropriated for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act [such sections]."

§ 433d. Repealed. Pub. L. 92–568, § 3(2), Oct. 26, 1972, 86 Stat. 1182.

Section, act June 2, 1936, ch. 477, § 4, 49 Stat. 1394, provided that members of Perry's Victory Memorial Commission created by act Mar. 3, 1919, ch. 116, 40 Stat. 1322, act as a board of advisors, and also provided for number of members, method of filling vacancies, and travel expenses but no compensation for the members.

§ 433e. Same; persons eligible for employment.

Employees of the Perry's Victory Memorial Commission on June 2, 1936, may, in the discretion of the Secretary of the Interior, be employed by the National Park Service, in the administration, protection, and development of said peace memorial. (As amended Oct. 26, 1972, Pub. L. 92–568, § 1, 86 Stat. 1181.)

CHANGE OF NAME

"Peace memorial" substituted for "national monument" to conform to the redesignation of Perry's Victory and International Peace Memorial National Monument as Perry's Victory and International Peace Memorial provided in section 1 of Pub. L. 92–568, classified to section 433f–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 433f of this title.

§ 433f–1. Change in name of Perry's Victory and International Peace Memorial National Monument.

The Perry's Victory and International Peace Memorial National Monument, established in accordance with section 433a of this title, is redesignated the Perry's Victory and International Peace Memorial. (Pub. L. 92–568, § 1, Oct. 26, 1972, 86 Stat. 1181.)

§§ 441j to 441o.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 25 sections 459, 459d.

§ 450bb. Harpers Ferry National Historical Park; establishment; acceptance of donations of land, etc.

In order to carry out the purposes of sections 450bb to 450bb–2 of this title, the Secretary of the Interior is authorized to acquire lands or interests in lands, by donation, purchase with donated or appropriated funds, or exchange, within the boundaries as generally depicted on the drawing entitled "Boundary Map, Harpers Ferry National Historical Park," numbered 385–40,000D and dated April 1974, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior: *Provided,* That after advising the Committees on Interior and Insular Affairs of the Congress of the United States, in writing, the Secretary may make minor revisions in the boundary, when necessary, by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage shall not exceed two thousand acres: *Provided further,* That nothing herein shall be deemed to authorize the acquisition, without consent of the owner, of a fee simple interest in lands within the boundaries in which a less than fee interest has previously been acquired by the Secretary of the Interior. Any Federal land within the area designated by the Secretary of the Interior as necessary for park purposes shall be transferred to the administration of the Department of the Interior and when so transferred shall become a part of the park: *Provided,* That the Federal department or agency having administration over such land shall agree in advance to such transfer. (As amended Oct. 24, 1974, Pub. L. 93–466, § 1(1), 88 Stat. 1420.)

AMENDMENTS

1974—Pub. L. 93–466 inserted reference to updated map, prohibited the Secretary from exercising any power of condemnation on lands in which a less than fee interest has been previously acquired, authorized the acquisition of land with appropriated funds and by exchange, authorized an increase in total area from 1500 to 2000 acres, and authorized the Secretary to make minor boundary changes by publication of a revised description in the Federal Register, after advising the Committees on Interior and Insular Affairs.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 30, 1944, as amended by Pub. L. 93–466, § 1(3), provided that: "In addition to such sums as have heretofore been appropriated, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [sections 450bb to 450bb–2 of this title], but not more than $1,300,000 for the acquisition of lands and interests in lands, and not more than $8,690,000 for development."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450bb–1, 450bb–2, 450bb–3, 450bb–6 of this title.

§ 450bb–2. Same; maintenance of museum; acceptance of museum articles; construction of roads, etc.

The Secretary of the Interior is authorized to—

(1) Maintain, either in an existing structure acquired under the provisions of section 450bb of this title or in a building constructed by him for the purpose, a museum for relics and records pertaining to historic events that took place at Harpers Ferry, and for other relics of national and patriotic interest, and to accept on behalf of the United States, for installation in such

museum, articles which may be offered as additions to the museum;

(2) Construct roads and facilities and mark with monuments, tablets, or otherwise, points of interest within the boundaries of the Harpers Ferry National Historical Park; and

(3) Provide, directly or by contract, subject to the provisions of the Act of June 7, 1974, an interpretive shuttle transportation service within, between, and among lands acquired for the purpose of sections 450bb to 450bb–2 of this title for such times and upon such terms as in his judgment will best accomplish the purposes of sections 450bb to 450bb–2 of this title.

(As amended Oct. 24, 1974, Pub. L. 93–466, § 1(2), 88 Stat. 1420.)

REFERENCES IN TEXT

Act of June 7, 1974, referred to in par. (3), is Pub. L. 93–303, June 7, 1974, 88 Stat. 192, which amended sections 460*l*–6a, 460*l*–8, and 460*l*–10a of this title.

AMENDMENTS

1974—Par. (3). Pub. L. 93–466 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 450bb, 450bb–3, 450bb–6 of this title.

§ 450*ll*. Booker T. Washington National Monument; acquisition of site.

APPROPRIATIONS

Section 4 of act Apr. 2, 1956, as amended by Pub. L. 92–272, title II, § 201(2), Apr. 11, 1972, 86 Stat. 120, provided that: "There are authorized to be appropriated such sums not to exceed $600,000 as may be necessary to carry out the provisions of this Act [sections 450*ll* to 450*ll*–2 of this title]".

§ 450qq–4. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 450qq to 450qq–4 of this title, but not to exceed $28,350,000 for land acquisition and $2,900,000 for development. (As amended Pub. L. 93–477, title I, § 101(1), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$28,350,000" for "$24,575,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 450qq–2 of this title.

NATIONAL SEASHORE RECREATIONAL AREAS

§ 459c–1. Same; description of area.

(a) The area comprising that portion of the land and waters located on Point Reyes Peninsula, Marin County, California, which shall be known as the Point Reyes National Seashore, is described as the area within the boundaries generally depicted on the map entitled "Boundary Map, Point Reyes National Seashore, Marin County, California", numbered 612–80,008–B, and dated August 1974, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(b) The area referred to in subsection (a) of this section shall also include a right-of-way to the aforesaid tract in the general vicinity of the northwesterly portion of the property known as "Bear Valley Ranch", to be selected by the Secretary, of not more than four hundred feet in width, together with such adjoining lands as would be deprived of access by reason of the acquisition of such right-of-way. (As amended Pub. L. 93–550, title II, § 201, Dec. 26, 1974, 88 Stat. 1744.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–550 substituted as a boundary description Boundary Map No. 612–80,008–B, and dated August 1974, on file in the office of the National Park Service, Department of Interior, for a boundary map designated NS–PR–7001, dated June 1, 1960, on file with the Director of the National Park Service, Washington, D.C., and all measurements relating thereto.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c, 459c–2, 459c–4 to 459c–7 of this title.

§ 459c–4. Point Reyes National Seashore; establishment; notice in Federal Register; distribution of notice and map.

AMENDED DESCRIPTION OF BOUNDARIES OF POINT REYES NATIONAL SEASHORE; PUBLICATION IN FEDERAL REGISTER

Pub. L. 93–550, title II, § 202, Dec. 26, 1974, 88 Stat. 1744, provided that: "The Secretary of the Interior shall, as soon as practicable after the date of enactment of this title [Dec. 26, 1974], publish an amended description of the boundaries of the Point Reyes National Seashore in the Federal Register, and thereafter he shall take such action with regard to such amended description and the map referred to in section 201 of this title [amending section 459c–1 of this title] as is required in the second sentence of subsection (b) of section 4 of the Act of September 13, 1962, as amended [subsec. (b) of this section]."

§ 459f–10. Same; appropriations.

There are hereby authorized to be appropriated the sum of not more than $21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States) for the acquisition of lands and interests in land and such sums as may be necessary for the development of the area authorized under sections 459f to 459f–10 of this title. (As amended Pub. L. 92–272, title I, § 101(1), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 substituted "$21,050,000 (including such sums, together with interest, as may be necessary to satisfy final judgments rendered against the United States)" for "$16,250,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459f, 459f–1, 459f–2, 459f–4, 459f–5, 459f–7, 459f–8 of this title.

§ 459g. Cape Lookout National Seashore; purposes; authorization for establishment; description of area.

In order to preserve for public use and enjoyment an area in the State of North Carolina possessing outstanding natural and recreational values, there is hereby authorized to be established the Cape Lookout National Seashore (hereinafter referred to as "seashore"), which shall comprise the lands and adjoining marshlands and waters on the outer banks of Carteret County, North Carolina, between Ocracoke Inlet and Beaufort Inlet, as generally depicted on the map entitled "Boundary Map, Cape Lookout National Seashore", dated March 1974, and numbered 623–20,009, which is on file in the Office of the National Park Service, Department of the Interior. (As

amended Pub. L. 93–477, title IV, § 406(1), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Pub. L. 93–477 substituted " 'Boundary Map, Cape Lookout National Seashore', dated March 1974, and numbered 623–20,009" for " 'Proposed Boundaries—Proposed Cape Lookout National Seashore', dated April 1964, and numbered NS–CL–7101–B", and deleted proviso relating to certain property not to be included in seashore.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459g–1, 459g–2, 459g–4, 459g–5, 459g–7 of this title.

§ 459g–1. Same; acquisition of property.

(a) Transfer from Federal agency to administrative jurisdiction of Secretary; non-Federal lands.

Notwithstanding any other provision of law, Federal property located within the boundaries of the Cape Lookout National Seashore may, with the concurrence of the agency having custody thereof, be transferred to the administrative jurisdiction of the Secretary of the Interior for the purposes of the seashore. Such transfer shall be made without transfer of funds. Lands owned by the State of North Carolina or any political subdivision thereof may be acquired only by donation, but the Secretary may, subject to the provisions of section 459g–6 of this title, acquire any other non-Federal lands, marshlands, waters, or interests therein which are located within the boundaries of the seashore by donation, purchase with donated or appropriated funds, or exchange. Notwithstanding any other provision of law, the Secretary may accept any lands donated by the State of North Carolina subject to a provision for reversion to the State conditioned upon continued use of the property for national seashore purposes. Land donated by the State of North Carolina pursuant to this subsection shall constitute consideration for the transfer by the United States of 1.5 acres of land that is to be used as a site for a public health facility in the village of Hatteras, Dare County, North Carolina.

* * * * *

(As amended Pub. L. 93–477, title IV, § 406(2), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–477 substituted provisions relating to acquisition by donation of lands owned by the State of North Carolina and acquisition by donation, purchase or exchange of non-Federal lands, marshlands, etc., and acceptance of lands donated by North Carolina, for provisions relating to acquisition of non-Federal lands, marshlands, etc., by donation only and acquisition by exchange lands comprising the Shackleford Banks.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459g–2, 459g–4, 459g–5, 459g–7 of this title.

§ 459g–2. Same; establishment; notice in Federal Register; copies to Congress.

When title to lands and interests in lands in an amount sufficient to consitute an efficiently administerable unit for the purposes of sections 459g to 459g–7 of this title is vested in the United States, the Secretary shall declare the establishment of the seashore by publication of notice thereof in the Federal Register. Such notice shall contain a refined description or map of the boundaries of the seashore as the Secretary may find desirable and such exterior boundaries shall encompass, as nearly as possible, the area generally described in section 459g of this title. Copies of said description or map shall be furnished to the Speaker of the House and the President of the Senate not less than thirty days prior to publication in the Federal Register. Following such establishment, and subject to the limitations and conditions prescribed in sections 459g to 459g–7 of this title, the Secretary may, subject to the provisions of section 459g–1 of this title, acquire the remainder of the lands and interests in lands within the boundaries of the seashore. (As amended Pub. L. 93–477, title IV, § 406(3), Oct. 26, 1974, 88 Stat. 1448.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "in an amount sufficient to constitute an efficiently administerable unit for the purposes of sections 459g to 459g–7 of this title" for "which under section 459g–1(a) of this title may be acquired for the purposes of the seashore by donation only", and "establishment of the seashore by publication" for "establishment of the Cape Lookout National Seashore by publication".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459g–1, 459g–4, 459g–5, 459g–7 of this title.

§§ 459g–3 to 459g–5.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 459g–7 of this title.

§ 459g–6. Same; preservation and designation as wilderness; review of area by Secretary; report to President.

On or before January 1, 1978, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title. (As amended Pub. L. 93–477, title IV, § 406(4), Oct. 26, 1974, 88 Stat. 1449.)

AMENDMENTS

1974—Pub. L. 93–477 substituted provisions authorizing review of area and report to the President by the Secretary with regard to suitability of area for preservation as wilderness for provisions authorizing appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459g–1, 459g–2, 459g–4, 459g–5, 459g–7 of this title.

§ 459g–7. Same; authorization of appropriations; master plan to Committees on Interior and Insular Affairs; time; contents.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459g to 459g–7 of this title, not to exceed $7,903,000 for acquisition of lands and interests therein, of which no more than $1,000,000 may be expended for acquisition of lands owned by Core Banks Club Properties, Incorporated. For development of essential public facilities there are authorized to be appropriated not more than $2,935,000. On or before January 1, 1978, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States

Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459g to 459g-7 of this title, indicating—

(1) the facilities needed to accommodate the health, safety and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore.

(Pub. L. 89-366, § 8, as added Pub. L. 93-477, title IV, § 406(5), Oct. 26, 1974, 88 Stat. 1449.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459g-1, 459g-2, 459g-4, 459g-5 of this title.

§ 459h-1. Same; acquisition of property.

(a) Authority of Secretary; concurrence of State owner; administrative site and related facilities; transfer from Federal agency to administrative jurisdiction of Secretary.

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that property owned by a State or any political subdivision thereof may be acquired only with the consent of the owner. The Secretary may acquire by any of the above methods not more than four hundred acres of land or interests therein outside of the seashore boundaries on the mainland in the vicinity of Biloxi-Gulfport, Mississippi, for an administrative site and related facilities for access to the seashore. With the concurrence of the agency having custody thereof, any Federal property within the seashore and mainland site may be transferred without consideration to the administative jurisdiction of the Secretary for the purposes of the seashore.

* * * * *

(As amended Pub. L. 92-275, § 1(1), Apr. 20, 1972, 86 Stat. 123.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-275 increased amount of property authorized to be acquired from one hundred thirty-five to four hundred acres.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459h-4, 459h-8, 459h-9 of this title.

§ 459h-9. Same; Gulf Islands National Seashore Advisory Commission; establishment; termination; membership; term; Chairman; compensation and payment of expenses; consultation by Secretary.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 459h-10. Same; authorization of appropriations.

There are authorized to be appropriated not more than $3,462,000 for the acquisition of lands and interests in lands and not more than $17,774,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein. (As amended Pub. L. 92-275, § 1(2), Apr. 20, 1972, 86 Stat. 123.)

AMENDMENTS

1972—Pub. L. 92-275 increased appropriations authorization for lands and land interests from $3,120,000 to $3,462,000 and for development from $14,779,000 (1970 prices) to $17,774,000 (June 1970 prices).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459h-1, 459h-4, 459h-8, 459h-9 of this title.

§ 459i. Cumberland Island National Seashore; purposes, establishment; boundary revisions: notification of Congressional committees, publication in Federal Register.

In order to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States, and to preserve related scenic, scientific and historical values, there is established in the State of Georgia the Cumberland Island National Seashore (hereinafter referred to as the "seashore") consisting of the area generally depicted on the drawing entitled "Boundary Map, Cumberland Island National Seashore", numbered CUIS-40,000B, and dated June 1971, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may after notifying the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate in writing, make minor adjustments in the boundary of the seashore from time to time by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage within the boundaries shall not exceed forty thousand five hundred acres. (Pub. L. 92-536, § 1, Oct. 23, 1972, 86 Stat. 1066.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459i-2, 459i-5 to 459i-7 of this title.

§ 459i-1. Same; acquisition of lands; authority of Secretary; mainland lands for access to seashore administrative and visitor facilities; State lands; transfer from Federal agency to administrative jurisdiction of Secretary.

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by purchase, donation, transfer from any Federal agency, or exchange. The Secretary may also acquire not to exceed one hundred acres of lands or interests in lands on the mainland to provide access to the administrative and visitor facilities for the seashore. Any lands or interests therein owned by the State of Georgia, or any political subdivision thereof may be acquired only by donation. Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the seashore. (Pub. L. 92-536, § 2, Oct. 23, 1972, 86 Stat. 1066.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459i–2, 459i–3, 459i–5 to 459i–7 of this title.

§ 459i–2. Same; Cumberland Island Parkway; right-of-way; administration; regulations.

For the purpose of providing access from Interstate 95 to the mainland administrative and visitor facilities of the seashore, the Secretary may designate as the Cumberland Island Parkway a right-of-way, together with adjacent or related sites for public noncommercial recreational use and for interpretation of scenic and historic values, of not more than one thousand acres of lands, waters, and interests therein. The Secretary is authorized to acquire only by donation those lands and interests therein, and other property comprising such right-of-way, and adjacent or related sites as he may designate pursuant to sections 459i to 459i–9 of this title for the development, hereby authorized, of a roadway of parkway standards, including necessary bridges, spurs, connecting roads, access roads, and other facilities, and for the development and interpretation of recreation areas and historic sites in connection therewith. Lands acquired for the parkway shall be administered as a part of the seashore, subject to all laws and regulations applicable thereto, and subject to such special regulations as the Secretary may promulgate for the parkway. (Pub. L. 92–536, § 3, Oct. 23, 1972, 86 Stat. 1066.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459i–5 to 459i–7 of this title.

§ 459i–3. Same; acquisition of property.

(a) Private right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; exception of property for visitor facilities or administration of seashore; compensation; contemporaneous restriction on development of public use facilities; lands, waters, and interests from National Park Foundation.

With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner: *Provided, however,* That, in addition, for so long as a right of use and occupancy remains in effect by the donors of land of one hundred acres or more, the Secretary shall not, with respect to such lands, develop any public use facilities except for trails, road access, and utilities: *Provided further,* That when acquiring lands, waters, and interests therein from the National Park Foundation, its successors and assigns, the Secretary shall acquire such lands, waters, and interests subject to the written terms and conditions contained in those transactions, including but not limited to options, entered into by the National Park Foundation prior to January 1, 1973, and that such previous written rights and interests shall prevail over provisions of this subsection.

(b) Commercial use prohibition; termination of use and occupancy upon tender of compensation.

A right of use and occupancy retained or enjoyed pursuant to this section may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(c) "Improved property" defined.

The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before February 1, 1970 (hereinafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(d) Little Cumberland Island; acquisition restrictions.

(1) In order to provide an opportunity for the establishment of a natural and scenic preserve by voluntary private action of certain owners of lands within the seashore, and notwithstanding anything to the contrary herein contained, no lands or interests in lands shall be acquired on Little Cumberland Island without the consent of the owner, for a period of one year from October 23, 1972, except as specifically otherwise provided herein.

(2) In the event that the owners of land on Little Cumberland Island enter into an irrevocable trust or some other irrevocable agreement for the preservation of the resources of Little Cumberland Island which, in the judgment of the Secretary, assures the protection of the resources in a manner consistent with the purposes for which the seashore is established, the authority of the Secretary to acquire such lands shall be suspended for such time as the trust is in effect and the lands are used and occupied in accordance therewith.

(3) If, at any time during the one-year period following October 23, 1972, the Secretary determines that any lands on Little Cumberland Island are threatened with development, or other uses, inconsistent with the establishment or continuation of the trust herein referred to, then the Secretary may acquire such lands, or interests therein, by any of the methods provided for in section 459i–1 of this title. (Pub. L. 92–536, § 4, Oct. 23, 1972, 86 Stat. 1066.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459i–2, 459i–5 to 459i–7 of this title.

§ 459i–4. Same; hunting and fishing.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction

within the boundaries of the seashore in accordance with the appropriate laws of Georgia and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, or public use and enjoyment. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities. (Pub. L. 92–536, § 5, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–5 to 459l–7 of this title.

§ 459l–5. Same; administration, protection, and development.

(a) Applicability of provisions; utilization of statutory authorities.

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459l to 459l–9 of this title.

(b) Preservation in primitive state; recreational activities exception.

Except for certain portions of the seashore deemed to be especially adaptable for recreational uses, particularly swimming, boating, fishing, hiking, horseback riding, and other recreational activities of similar nature, which shall be developed for such uses as needed, the seashore shall be permanently preserved in its primitive state, and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions not prevailing, nor shall any road or causeway connecting Cumberland Island to the mainland be constructed. (Pub. L. 92–536, § 6, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–6, 459l–7 of this title.

§ 459l–6. Same; State and local jurisdiction.

Nothing in sections 459l to 459l–9 of this title shall deprive the State of Georgia or any political subdivision thereof of its civil or criminal jurisdiction over persons found, acts performed, and offenses committed within the boundaries of the seashore, or of its right to tax persons, corporations, franchises, or other non-Federal property on lands included therein. (Pub. L. 92–536, § 7, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–5, 459l–7 of this title.

§ 459l–7. Same; water resource developments.

The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection and navigation improvements on land and/or waters within the Cumberland Island National Seashore shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of sections 459l to 459l–9 of this title and the purpose of existing statutes dealing with water and related land resource development. (Pub. L. 92–536, § 8, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–5, 459l–6 of this title.

§ 459l–8. Same; report to President.

Within three years from October 23, 1972, the Secretary of the Interior shall report to the President, in accordance with section 1132 (c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the national seashore for preservation as wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132 (c) and (d) of this title. (Pub. L. 92–536, § 9, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–5 to 459l–7 of this title.

§ 459l–9. Same; authorization of appropriations.

There are authorized to be appropriated not to exceed $10,500,000 for the acquisition of lands and interests in lands and not to exceed $27,840,000 for development of the seashore. (Pub. L. 92–536, § 10, Oct. 23, 1972, 86 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459l–2, 459l–5 to 459l–7 of this title.

§ 459j. Canaveral National Seashore; establishment; boundary; boundary revisions; limitation on area.

In order to preserve and protect the outstanding natural, scenic, scientific, ecologic and historic values of certain lands, shoreline, and waters of the State of Florida, and to provide for public outdoor recreation use and enjoyment of the same, there is hereby established the Canaveral National Seashore (hereinafter referred to as the "seashore"), as generally depicted on the map entitled "Boundary Map, Canaveral National Seashore", dated August 1974 and numbered NS–CAN–40,000A. Such seashore shall comprise approximately sixty-seven thousand five hundred acres within the area more particularly described by a line beginning at the intersection of State Highway 3 and State Road 402, thence generally easterly following State Road 402 to a point one-half mile offshore in the Atlantic Ocean, thence northwesterly along a line which is at each point one-half mile distant from the high water mark to Bethune Beach, thence inland in a generally westerly direction through Turner Flats and Shipyard Canal, thence northwesterly to the Intracoastal Waterway, thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center, thence southwesterly to United States Highway 1, thence southerly along State Highway 3 to the point of beginning. The boundary map shall be on file and

available for public inspection in the offices of the United States Fish and Wildlife Service and National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States Congress, in writing, at least sixty days prior to making any boundary revisions, the Secretary may from time to time make minor revisions in the boundaries of the seashore by publication of a revised map or other boundary description in the Federal Register: *Provided,* That the total acreage included within the boundaries shall not exceed that enumerated in this section. (Pub. L. 93–626, § 1, Jan. 3, 1975, 88 Stat. 2121.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–1. Same; acquisition of property; donation and development of State lands; transfer from Federal agency to administrative jurisdiction of Secretary; written cooperative agreement with National Aeronautics and Space Administration; construction and development; report to Committees of Congress.

Within the boundaries of the seashore, the Secretary may acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any property owned by the State of Florida or any political subdivision thereof may be acquired only by donation. It is the intent and purpose of sections 459j to 459j–8 of this title that the Secretary shall have sole authority to develop and improve those State owned lands donated now and in the future in accordance with the intent and purposes of sections 459j to 459j–8 of this title. Notwithstanding any other provision of law, any federally owned property within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary of the Interior and he may develop and administer such lands in a manner consistent with the purposes of sections 459j to 459j–8 of this title. In accepting lands transferred by the National Aeronautics and Space Administration pursuant to sections 459j to 459j–8 of this title, the Secretary shall enter into a written cooperative agreement with the Administrator to assure the use of such lands in a manner which is deemed consistent with the public safety and with the needs of the space and defense programs of the Nation: *Provided,* That no new construction or development shall be permitted within the seashore, except for the construction of such facilities as the Secretary deems necessary for the health and safety of the visiting public or for the proper administration of the seashore: *Provided further,* That after January 3, 1975, the Secretary of the Interior, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall submit to the Committees on Interior and Insular Affairs of the Congress and to the Committee on Science and Astronautics of the House of Representatives and to the Committee on Aeronautical and Space Sciences of the Senate a report of all land transfers made by the National Aeronautics and Space Administration to the Department of the Interior under sections 459j to 459j–8 of this title. (Pub. L. 93–626, § 2, Jan. 3, 1975, 88 Stat. 2122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–2, 459j–4, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–2. Same; improved property.

(a) Owner's reservation of right of use and occupancy for residential purposes for life or fixed term of years; exception of property for visitor facilities, access to, or administration of seashore; compensation.

Except for property deemed necessary by the Secretary for visitor facilities, or for access to or administration of the seashore, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term not to exceed twenty-five years, or in lieu thereof, for a term ending at the death of the owner, or the death of his spouse, whichever is the later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(b) Termination of use and occupancy upon inconsistent use; tender of compensation.

The Secretary may terminate a right of use and occupancy retained pursuant to this section upon his determination that such use and occupancy is being exercised in a manner not consistent with the purposes of sections 459j to 459j–8 of this title, and upon tender to the holder of the right of an amount equal to the fair market value of that portion of the right which remains unexpired on the date of termination.

(c) Improved property defined.

The term "improved property", as used in this section shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1971 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures, necessary to the dwelling which are situated on the land so designated.

(d) Condemnation as means for acquiring clear and marketable title.

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances. (Pub. L. 93–626, § 3, Jan. 3, 1975, 88 Stat. 2123.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–4, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–3. Same; designation of hunting, fishing and trapping zones; regulations; consultation with appropriate State agencies.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the seashore in accordance with the appropriate laws of the State of Florida and the United States to the extent applicable, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish and wildlife management, public use and enjoyment, protection of the resource, or competing public use. Except in emergencies, any regulations prescribing any such restrictions shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities. (Pub. L. 93–626, §4, Jan. 3, 1975, 88 Stat. 2123.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–4. Same; administration, protection and development.

(a) Conservation and management of natural resources.

The seashore shall be administered, protected, and developed in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, except that any other statutory authority available to the Secretary for the conservation management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 459j to 459j–8 of this title.

(b) Administration of lands in Merritt Island National Wildlife Refuge.

Notwithstanding any other provisions of sections 459j to 459j–8 of this title, lands and waters in the Merritt Island National Wildlife Refuge as described in subsection (c) (2) of this section which are part of the seashore shall be administered for refuge purposes through the United States Fish and Wildlife Service pursuant to sections 668dd and 668ee of this title, except that the Secretary may utilize such additional authority as may be available to him for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate, consistent with the preservation of natural and wildlife values.

(c) Division of management authority between National Park Service and United States Fish and Wildlife Service.

The Secretary shall cause to be issued a well defined division of management authority between the National Park Service and the United States Fish and Wildlife Service. It is the intent and purpose of sections 459j to 459j–8 of this title that such management authority, generally, shall be as follows:

(1) The National Park Service shall administer those lands and waters described as follows: beginning at the intersection of State Highway 3 and State Road 402; thence easterly along State Road 402 and continuing easterly in a straight line to a point one-half mile offshore in the Atlantic Ocean, following the southern boundary of the seashore created in section 1; thence northwesterly along the boundary of the seashore created in section 1, which line is at each point one-half mile distance from the high water mark, to Bethune Beach; thence inland in a generally, westerly direction through Turner Flats and Shipyard Canal; thence northwesterly to the Intracoastal Waterway; thence southerly along the Intracoastal Waterway to the boundary of the Kennedy Space Center; then southwesterly to United States Highway 1; thence southerly along State Highway 3 to the northern boundary of H. M. Gomez Grant; thence easterly along the northern boundary of H. M. Gomez Grant and continuing easterly in a straight line to a point of intersection with the line between the marsh and the dunes; thence southerly along the line between the marsh and the dunes to a point approximately one-half mile north of the southern boundary of the seashore created in section 1; thence westerly in a straight line to connect with and to follow the Government Railroad to its intersection with State Highway 3; thence southerly along State Highway 3 to the point of beginning. The portion of land bounded by the northern boundary of the H. M. Gomez Grant is hereby transferred to the Secretary of the Interior and may be used for the purpose of establishing such facilities as are needed for the administration of the seashore, for the construction of the principal visitor center which shall be designated as the "Spessard L. Holland Visitor Center", and for a central access to the seashore: *Provided, however,* That the Secretary of the Interior, upon the request of the Administrator of the National Aeronautics and Space Administration, shall close this area or any part thereof to the public when necessary for space operations. In administering the shoreline and adjacent lands the Secretary shall retain such lands in their natural and primitive condition, shall prohibit vehicular traffic on the beach except for administrative purposes, and shall develop only those facilities which he deems essential for public health and safety.

(2) The United States Fish and Wildlife Service shall administer the remaining lands described in section 459j of this title. (Pub. L. 93–626, § 5, Jan. 3, 1975, 88 Stat. 2123.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–5. Same; Canaveral National Seashore Advisory Commission.

(a) Establishment; duties; termination; membership; term of members; appointment; Chairman.

There is hereby established the Canaveral National Seashore Advisory Commission which shall consult and advise with the Secretary on all matters of planning, development, and operation of the seashore and shall provide such other advice and assistance as may be useful in carrying out the purposes of sections 459j to 459j–8 of this title. The Commission shall terminate ten years after the date the seashore is established pursuant to sections 459j

to 459j–8 of this title, unless extended by the Congress. The Commission shall be composed of five members who shall serve for terms of two years. Members shall be appointed by the Secretary, one of whom he shall designate as Chairman, in the following manner:

(1) one member from each county in which the seashore is located, to be selected from recommendations made by the county commission in each county;

(2) two members representing the State of Florida who shall be selected from recommendations made by the Governor of Florida; and

(3) one member representing the general public.

(b) Meetings; vacancies.

After the Secretary designates the member to be Chairman, the Commission may meet as often as necessary at the call of the Chairman or of the Secretary, or upon petition of a majority of the members of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment was made.

(c) Compensation; payment of expenses upon vouchers.

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section. (Pub. L. 93–626, § 6, Jan. 3, 1975, 88 Stat. 2124.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–6, 459j–8 of this title.

§ 459j–6. Same; transfer of lands for use as administrative and visitor facilities to Secretary of Interior; use of portion of John F. Kennedy Space Center; transfer of excess land within seashore to Secretary of Interior.

On January 3, 1975, those lands to be used for the administrative and visitor facilities described in section 459j–4(c)(1) of this title shall be transferred by sections 459j to 459j–8 of this title to the Secretary of the Interior and those portions of the John F. Kennedy Space Center falling within the boundaries of the seashore as defined in section 459j of this title shall become a part of the seashore, and within ninety days thereafter, the Administrator, National Aeronautics and Space Administration, shall grant to the Secretary for carrying out the intent and purpose of sections 459j to 459j–8 of this title such use of said portions as the Administrator determines is not inconsistent with public safety and the needs of the space and defense programs of the Nation. Notwithstanding any other provision of law, any lands within the seashore which the Administrator determines to be excess to the needs of such agency shall be transferred to the Secretary of the Interior for administration in accordance with the provisions of sections 459j to 459j–8 of this title: *Provided*, That any portions of the John F. Kennedy Space Center within the seashore not transferred to the Secretary shall remain under the control and jurisdiction of the Administrator. (Pub. L. 93–626, § 7, Jan. 3, 1975, 88 Stat. 2125.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–5, 459j–8 of this title.

§ 459j–7. Same; report to President.

Within three years from January 3, 1975, the Secretary shall review the area within the seashore and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the seashore for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title. (Pub. L. 93–626, § 8, Jan. 3, 1975, 88 Stat. 2125.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–5, 459j–6, 459j–8 of this title.

§ 459j–8. Same; authorization of appropriations; limitations for acquisition of land and development of public facilities; prompt acquisition of private lands; report to committees of Congress; contents; time; master development plan; transmittal to committees of Congress; contents.

(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 459j to 459j–8 of this title, but not more than $7,941,000 for the acquisition of lands and interests in lands. In order to avoid excessive costs resulting from delays in the acquisiton program, the Secretary shall make every reasonable effort to promptly acquire the privately owned lands within the seashore. Until all such lands are acquired, he shall report, in writing on June 30 of each year to the Committees on Interior and Insular Affairs of the United States Congress, the following information:

(1) the amount of land acquired during the current fiscal year and the amount expended therefor;

(2) the amount of land remaining to be acquired; and

(3) the amount of land programed for acquisition in the ensuing fiscal year and the estimated cost thereof.

(b) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within three years from January 3, 1975, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the full development of the seashore consistent with the preservation objectives of sections 459j to 459j–8 of this title, indicating:

(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the seashore.

(Pub. L. 93–626, § 9, Jan. 3, 1975, 88 Stat. 2125.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–1, 459j–2, 459j–4, 459j–5, 459j–6 of this title.

NATIONAL CONSERVATION RECREATIONAL AREA

§ 460k–1. Acquisition of lands for recreational development; funds.

The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

(1) incidental fish and wildlife-oriented recreational development,

(2) the protection of natural resources,

(3) the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title, or

(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within, the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps. Lands acquired pursuant to this section shall become a part of the particular conservation area to which they are adjacent. (As amended Pub. L. 92–534, Oct. 23, 1972, 86 Stat. 1063; Pub. L. 93–205, § 13(d), Dec. 28, 1973, 87 Stat. 902.)

AMENDMENTS

1973—Pub. L. 93–205 inserted references to the acquisition of interest in land the conservation of endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title.

1972—Pub. L. 92–534 substituted provisions authorizing the Secretary to acquire lands suitable for fish and wildlife oriented recreational development, or for the protection of natural resources and adjacent to conservation areas, for provisions authorizing the Secretary to acquire limited areas of land for recreational development adjacent to conservation areas in existence or approved by the Migratory Bird Conservation Commission as of September 28, 1962.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective on Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459*l*–5, 460k–2, 460k–3, 460k–4, 460*l*–9, 668dd of this title.

OUTDOOR RECREATION PROGRAMS

§ 460*l*–4. Land and water conservation provisions; statement of purposes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–6a, 1534 of this title; title 7 section 1011; title 40 App., section 214.

§ 460*l*–5. Land and water conservation funds; establishment; covering certain revenues and collections into fund.

During the period ending June 30, 1989, and during such additional period as may be required to repay any advances made pursuant to section 460*l*–7(b) of this title, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

(a) Surplus property sales.

All proceeds (except so much thereof as may be otherwise obligated, credited, or paid under authority of those provisions of law set forth in section 485 (b)–(e), Title 40, or the Independent Offices Appropriation Act 1963 (76 Stat. 725) or in any later appropriation Act) hereafter received from any disposal of surplus real property and related personal property under the Federal Property and Administrative Services Act of 1949, as amended, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Nothing in sections 460*l*–4 to 460*l*–11 of this title shall affect existing laws or regulations concerning disposal of real or personal surplus property to schools, hospitals, and States and their political subdivisions.

(b) Motorboat fuels tax.

The amounts provided for in section 460*l*–11 of this title.

(c) Other revenues.

(1) In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $200,000,000 for each of the fiscal years 1968, 1969, and 1970, and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989.

(2) To the extent that any such sums so appropriated are not sufficient to make the total annual income of the fund amount to $200,000,000 or $300,000,000 for each of such fiscal years, as provided in clause (1), an amount sufficient to cover the remainder thereof shall be credited to the fund from revenues due and payable to the United States for deposit in the Treasury as miscellaneous receipts under the Outer Continental Shelf Lands Act, as amended: *Provided*, That notwithstanding the provisions of section 460*l*–6 of this title, moneys covered into the fund under this paragraph shall remain in the fund until appropriated by the Congress to carry out the purpose of sections 460*l*–4 to 460*l*–11 of this title. (As amended Pub. L. 91–485, § 1, Oct. 22, 1970, 84 Stat. 1084.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, as amended, referred to in subsec. (c)(1), is classified to section 1331 et seq. of Title 43, Public Lands.

AMENDMENTS

1970—Subsec. (c)(1). Pub. L. 91–485, § 1(a), substituted "fiscal years 1968, 1969, and 1970, and not less than $300,000,000 for each fiscal year thereafter through June 30, 1989." for "five fiscal years beginning July 1, 1968, and ending June 30, 1973".

Subsec. (c)(2). Pub. L. 91–485, § 1(b), substituted $200,000,000 or $300,000,000 for each of such fiscal years, as provided in cl. (1)," for "$200,000,000 for each of such fiscal years,".

ELIMINATION OF SYSTEM OF ADMISSION AND USER FEES FOR FEDERAL RECREATION AREAS

Pub. L. 90–401, § 1(b), July 15, 1968, 82 Stat. 354, relating to admission and user fees for Federal recreation areas and facilities, was repealed by Pub. L. 92–347, § 1, July 11, 1972, 86 Stat. 459.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 460*l*–4, 460*l*–6, 460*l*–6a, 460*l*–7, 460*l*–8, 460*l*–10, 460*l*–10c, 460*l*–11, 1534 of this title; title 7 section 1011; title 40 section 885; title 40 App., section 214.

§ 460*l*–6. Appropriations for expenditure of land and water conservation fund moneys; transfers to miscellaneous receipts of the Treasury.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–6a, 1534 of this title; title 7 section 1011; title 40 App., section 214.

§ 460*l*–6a. Admission and special recreation use fees.

(a) Admission fees at designated areas; "Golden Eagle Passport" annual admission permit; issuance and use of annual admission permit; single-visit fees; fee-free travel areas; "Golden Age Passport" annual entrance permit; issuance and use of annual entrance permit.

Entrance or admission fees shall be charged only at designated units of the National Park System administered by the Department of the Interior and National Recreation Areas administered by the Department of Agriculture. No admission fees of any kind shall be charged or imposed for entrance into any other federally owned areas which are operated and maintained by a Federal agency and used for outdoor recreation purposes.

(1) For admission into any such designated area, an annual admission permit (to be known as the Golden Eagle Passport) shall be available, for a fee of not more than $10. The permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse, children, and parents accompanying him where entry to the area is by any means other than private, noncommercial vehicle, shall be entitled to general admission into any area designated pursuant to this subsection. The annual permit shall be valid during the calendar year for which the annual fee is paid. The annual permit shall not authorize any uses for which additional fees are charged pursuant to subsections (b) and (c) of this section. The annual permit shall be nontransferable and the unlawful use thereof shall be punishable in accordance with regulations established pursuant to subsection (e) of this section. The annual permit shall be available for purchase at any such designated area.

(2) Reasonable admission fees for a single visit at any designated area shall be established by the administering Secretary for persons who choose not to purchase the annual permit. A "single visit" means that length of time a visitor remains within the exterior boundary of a designated fee area beginning from the day he first enters the area until he leaves, except that on the same day such admission fee is paid, the visitor may leave and reenter without the payment of an additional admission fee to the same area.

(3) No admission fee shall be charged for travel by private, non-commercial vehicle over any national parkway or any road or highway established as a part of the National Federal Aid System, as defined in section 101 of Title 23, which is commonly used by the public as a means of travel between two places either or both of which are outside the area. Nor shall any fee be charged for travel by private, noncommercial vehicle over any road or highway to any land in which such person has any property right if such land is within any such designated area. In the Smoky Mountains National Park, unless fees are charged for entrance into said park on main highways and thoroughfares, fees shall not be charged for entrance on other routes into said park or any part thereof.

(4) The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit (to be known as the "Golden Age Passport") to any citizen of, or person domiciled in, the United States sixty-two years of age or older applying for such permit. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and any person accompanying him in a single, private, noncommercial vehicle, or alternatively, the permittee and his spouse and children accompanying him where entry to the area is by any means other than private, noncommercial vehicle, to general admission into any area designated pursuant to this subsection. No other free permits shall be issued to any person: *Provided,* That no fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local Government business and *Provided further,* That for no more than three years after the date of enactment of this Act, visitors to the United States will be granted entrance, without charge, to any designated admission fee area upon presentation of a valid passport.

(b) Recreation use fees; collection; campgrounds at lakes or reservoirs under jurisdiction of Corps of Engineers; fees for Golden Age Passport permittees.

Each Federal agency developing, administering, providing or furnishing at Federal expense, specialized outdoor recreation sites, facilities, equipment, or services shall, in accordance with this subsection and subsection (d) of this section, provide for the collection of daily recreation use fees at the place of use or any reasonably convenient location: *Provided,* That in no event shall there be a charge by any such agency for the use, either singly or in any combination, of drinking water, wayside exhibits, roads, overlook sites, visitors' centers, scenic drives, toilet facilities, picnic tables, or boat ramps: *Provided, however,* That a fee shall be charged for boat launching facilities only where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided: *And provided further,* That in no event shall there be a charge for the use of any campground not having the following—tent or trailer spaces, drinking water, access road, refuse containers, toilet facilities, personal collection of the fee by an employee or agent of the Federal agency operating the facility, reasonable visitor protection, and simple devices for containing a campfire (where campfires are permitted). At each lake or reservoir under the jurisdiction of the Corps of Engineers, United States Army, where camping is permitted, such agency shall provide at least one primitive campground, containing designated campsites, sanitary facilities, and vehicular access, where no charge shall be imposed. Any Golden Age Passport per-

mittee shall be entitled upon presentation of such permit to utilize such special recreation facilities at a rate of 50 per centum of the established use fee.

(c) Special recreation permits.

Special recreation permits for uses such as group activities, recreation events, motorized recreation vehicles, and other specialized recreation uses may be issued in accordance with procedures and at fees established by the agency involved.

(d) Criteria, posting and uniformity of fees.

All fees established pursuant to this section shall be fair and equitable, taking into consideration the direct and indirect cost to the Government, the benefits to the recipient, the public policy or interest served, the comparable recreation fees charged by non-Federal public agencies, the economic and administrative feasibility of fee collection and other pertinent factors.

Clear notice that a fee has been established pursuant to this section shall be prominently posted at each area and at appropriate locations therein and shall be included in publications distributed at such areas. It is the intent of sections 460*l*–4 to 460*l*–11 of this title that comparable fees should be charged by the several Federal agencies for comparable services and facilities.

(e) Rules and regulations; establishment; enforcement powers; penalty for violations.

In accordance with the provisions of this section, the heads of appropriate departments and agencies may prescribe rules and regulations for areas under their administration for the collection of any fee established pursuant to this section. Persons authorized by the heads of such Federal agencies to enforce any such rules or regulations issued under this subsection may, within areas under the administration or authority of such agency head and with or, if the offense is committed in his presence, without a warrant, arrest any person who violates such rules and regulations. Any person so arrested may be tried and sentenced by the United States magistrate specifically designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided in subsections (b), (c), (d), and (e) of section 3401 of Title 18. Any violations of the rules and regulations issued under this subsection shall be punishable by a fine of not more than $100.

(f) Disposition of fees; contracts with public or private entities for visitor reservation services.

Except as otherwise provided by law or as may be required by lawful contracts entered into prior to September 3, 1964, providing that revenues collected at particular Federal areas shall be credited to specific purposes, all fees which are collected by any Federal agency shall be covered into a special account in the Treasury of the United States to be administered in conjunction with, but separate from, the revenues in the Land and Water Conservation Fund: *Provided*, That the head of any Federal agency, under such terms and conditions as he deems appropriate, may contract with any public or private entity to provide visitor reservation services; and any such contract may provide that the contractor shall be permitted to deduct a commission to be fixed by the agency head from the amount charged the public for providing such services and to remit the net proceeds therefrom to the contracting agency. Revenues in the special account shall be available for appropriation, without prejudice to appropriations from other sources for the same purposes, for any authorized outdoor recreation function of the agency by which the fees were collected: *Provided, however*, That not more than forty per centum of the amount so credited may be appropriated during the five fiscal years following the enactment of this Act for the enhancement of the fee collection system established by this section, including the promotion and enforcement thereof.

(g) Federal and State Laws unaffected.

Nothing in sections 460*l*–4 to 460*l*–11 of this title shall authorize Federal hunting or fishing licenses or fees or charges for commercial or other activities not related to recreation, nor shall it affect any rights or authority of the States with respect to fish and wildlife, nor shall it repeal or modify any provision of law that permits States or political subdivisions to share in the revenues from Federal lands or any provision of law that provides that any fees or charges collected at particular Federal areas shall be used for or credited to specific purposes or special funds as authorized by that provision of law.

(h) Annual reports to Congress.

Periodic reports indicating the number and location of fee collection areas, the number and location of potential fee collection areas, capacity and visitation information, the fees collected, and other pertinent data, shall be coordinated and compiled by the Bureau of Outdoor Recreation and transmitted to the Committees on Interior and Insular Affairs of the United States House of Representatives and United States Senate. Such reports, which shall be transmitted no later than March 31 annually, shall include any recommendations which the Bureau may have with respect to improving this aspect of the land and water conservation fund program. (Pub. L. 88–578, title I, § 4, as added Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459, and amended Pub. L. 93–81, §§ 1, 2, Aug. 1, 1973, 87 Stat. 178, 179; Pub. L. 93–303, § 1, June 7, 1974, 88 Stat. 192.)

REFERENCES IN TEXT

The words "three years after the date of enactment of this Act" and "five fiscal years following the enactment of this Act" referred to in subsecs. (a)(4) and (e), respectively, refer to the enactment of Pub. L. 88–578, as amended. Pub. L. 88–578, which enacted sections 460*l*–4 to 460*l*–11 of this title, was approved Sept. 3, 1964; Pub. L. 92–347, which enacted this section, was approved July 11, 1972.

AMENDMENTS

1974—Subsec. (a). Pub L. 93–303, § 1(b), inserted "which are operated and maintained by a Federal agency and" following "areas."

Subsec. (a)(1). Pub. L. 93–303, § 1(c), among other changes, substituted "The permittee" for "Any person purchasing the annual permit", inserted provisions authorizing the permittee and his spouse, children, and parents accompanying him to enter an area where entry is by any means other than private, noncommercial vehicles, changed provisions which relate to the purchase of the annual permit to allow its sale at any designated area instead of through the offices of the Secretary of the Interior and the Secretary of Agriculture, through all post offices of the first- and second-class, and at such other offices as the Postmaster General directed, and eliminated

provisions which empowered the Secretary of the Interior to transfer to the Postal Service from the permit receipts such funds as are adequate to reimburse the Postal Service for the cost of the service.

Subsec. (a)(2). Pub. L. 93–303, § 1(d), eliminated "or who enter such an area by means other than by private, noncommercial vehicle" which followed "annual permit" in the first sentence. See subsec. (a)(1) of this section.

Subsec. (a)(4). Pub. L. 93–303, § 1(e), substituted "a lifetime admission permit" for "an annual entrance permit", limited the issuance of this permit to citizens of, or persons domiciled in the United States, and inserted provisions to allow the permittee and his spouse and children accompanying him to enter an area which entry is by any means other than private, noncommercial vehicle.

Subsec. (b). Pub. L. 93–303, § 1 (f), (g), among other changes, substituted "daily recreation use fee" for "special recreation use fees", authorized a fee for boat launching facilities where specialized facilities or services such as mechanical or hydraulic boat lifts or facilities are provided, required the Corps of Engineers to provide at least one primitive campground where no charge shall be imposed at each lake or reservoir under its jurisdiction, incorporated provisions formerly in subsec. (b)(1) allowing any Golden Age Passport permittee to utilize the recreation facilities at a rate of 50 per centum of the established use fee, eliminated the remainder of former subsec. (b)(1) which related to determination of daily use fees for overnight occupancy, and redesignated former subsec. (b)(2) as (c).

Subsec. (c). Pub. L. 93–303, § 1(g), redesignated former subsec. (b)(2) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–303, § 1 (g), (h), redesignated former subsec. (c) as (d), and substituted therein "a fee has been established pursuant to this section" for "an admission fee or special recreation use fee has been established."

Subsec. (e). Pub. L. 93–303, § 1(g), (i), redesignated former subsec. (d) as (e), and substituted therein "collection of any fee established pursuant to this section" for "collection of any entrance fee and/or special recreation use fee, as the case may be."

Subsec. (f). Pub. L. 93–303, § 1(g), (j), redesignated former subsec. (e) as (f), and inserted provisions therein empowering the head of any Federal agency to contract with any public or private entity to provide visitor reservation services.

Subsecs. (g), (h). Pub. L. 93–303, § 1(g), redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

1973—Subsec. (a)(2). Pub. L. 93–81, § 2, added the definition of "single visit".

Subsec. (b). Pub. L. 93–81, § 1, added in the opening paragraph the proviso that there shall be no charge for the day use or recreational use of facilities such as picnic areas, boat ramps, where no mechanical or hydraulic equipment is provided, drinking water, wayside exhibits, roads, trails, overlook sites, visitors' centers, scenic drives and toilet facilities and that no fee be charged for access to or use of campground not having flush restrooms, showers, access and circulatory roads, sanitary disposal stations, visitor protection control, designated tent or trailer spaces, refuse containers and potable water.

ESTABLISHMENT AND COLLECTION OF USE OR ROYALTY FEES FOR MANUFACTURE, REPRODUCTION, OR USE OF "GOLDEN EAGLE INSIGNIA"

Section 3(a) of Pub. L. 92–347 provided that: "The Secretary of the Interior may establish and collect use or royalty fees for the manufacture, reproduction, or use of 'The Golden Eagle Insignia', originated by the Department of the Interior and announced in the December 3, 1970, issue of the Federal Register (35 Federal Register 18376) as the official symbol for Federal recreation areas designated for recreation fee collection. Any fees collected pursuant to this subsection shall be covered into the Land and Water Conservation Fund."

TERMINATION OF RIGHTS IN "GOLDEN EAGLE INSIGNIA"

Section 3(d) of Pub. L. 92–347 provided that: "The rights in 'The Golden Eagle Insignia' under this Act [which enacted this section and section 715 of Title 18, enacted notes set out hereunder, and repealed note set out under section 460*l*–5 of this title], shall terminate if the use by the Secretary of the Interior of 'The Golden Eagle Insignia' is abandoned. Nonuse for a continuous period of two years shall constitute abandonment."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 450bb–2, 460*l*–4, 460*l*–5, 460*l*–6, 460*l*–7, 460*l*–8, 460*l*–10a to 460*l*–10c, 460*l*–11, 1534 of this title; title 7 section 1011; title 40 App., section 214.

§ 460*l*–7. Appropriations for expenditure of land and water conservation fund moneys.

Section 4 of Pub. L. 88–578 renumbered section 5 of Pub. L. 88–578 by Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–8a, 1534 of this title; title 7 section 1011; title 40 App. section 214.

§ 460*l*–8. Financial assistance to States.

* * * * *

(e) Projects for land and water acquisition; development.

In addition to assistance for planning projects, the Secretary may provide financial assistance to any State for the following types of projects or combinations thereof if they are in accordance with the State comprehensive plan:

(1) For the acquisition of land, waters, or interests in land or waters (other than land, waters, or interests in land or waters acquired from the United States for less than fair market value), but not including incidental costs relating to acquisition. Whenever a State provides that the owner of a single-family residence may, at his option, elect to retain a right of use and occupancy for not less than six months from the date of acquisition of such residence and such owner elects to retain such a right, such owner shall be deemed to have waived any benefits under sections 4623, 4624, 4625, and 4626 of Title 42 and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of Title 42.

* * * * *

(Pub. L. 88–578, title I, § 6, formerly § 5, Sept. 3, 1964, 78 Stat. 900, renumbered Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 549, and amended Pub. L. 93–303, § 2, June 7, 1974, 88 Stat. 194.)

AMENDMENTS

1974—Subsec. (e)(1). Pub. L. 93–303 inserted sentence relating to waiver of benefits by an owner of a single-family residence who elects to retain a right of use and occupancy for not less than six months from the date of acquisition of the residence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 460*l*–4, 460*l*–5, 460*l*–6, 460*l*–6a, 460*l*–7, 460*l*–10c, 460*l*–11, 460*l*–17, 1534 of this title; title 7 section 1011; title 40 App., section 214; title 42 section 4519.

§ 460*l*–9. Allocation of land and water conservation fund moneys for Federal purposes; payments into miscellaneous receipts of the Treasury as partial offset against capital costs of certain Federal water development projects; acquisition restriction.

(a) Moneys appropriated from the fund for Federal purposes shall, unless otherwise alloted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

(1) For the acquisition of land, waters, or interests in land or waters as follows:

* * * * *

Endangered species and threatened species.—For lands, waters, or interests therein, the acquisition of which is authorized under section 1534(a) of this title, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants.

Recreation at refuges.—For the incidental recreation purposes of section 460k–1 of this title; and

* * * * *

(Pub. L. 88–578, title I, § 7, formerly § 6, Sept. 3, 1964, 78 Stat. 903, amended Pub. L. 90–401, § 1(c), July 15, 1968, 82 Stat. 355, renumbered Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459, and amended Pub. L. 93–205, § 13(c), Dec. 28, 1973, 87 Stat. 902.)

AMENDMENTS

1973—Subsec. (a)(1). Pub. L. 93–205 substituted reference to "Endangered species and threatened species" followed by a definition covering "lands, waters, or interests therein, the acquisition of which is authorized under section 1533(a) of this title, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants" for a reference to "Threatened species" followed by a definition covering "any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 460*l*–4, 460*l*–5, 460*l*–6, 460*l*–6a, 460*l*–7, 460*l*–8, 460*l*–10a, 460*l*–10c, 460*l*–11, 460*l*–17, 460p–2, 460v–7, 541e, 1534 of this title; title 40 App., section 214.

§ 460*l*–10. Availability of land and water conservation fund for publicity purposes.

Section 7 of Pub. L. 88–578 renumbered section 8 of Pub. L. 88–578 by Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–6a, 1534 of this title; title 40 App. section 214.

§ 460*l*–10a. Contracts for acquisition of lands and waters.

Not to exceed $30,000,000 of the money authorized to be appropriated from the fund by section 460*l*–6 of this title may be obligated by contract during each fiscal year for the acquisition of lands, waters, or interests therein within areas specified in section 460*l*–9(a)(1) of this title. Any such contract may be executed by the head of the department concerned, within limitations prescribed by the Secretary of the Interior. Any such contract so entered into shall be deemed a contractual obligation of the United States and shall be liquidated with money appropriated from the fund specifically for liquidation of such contract obligation. No contract may be entered into for the acquisition of property pursuant to this section unless such acquisition is otherwise authorized by Federal law. (Pub. L. 88–578, title I, § 9, formerly § 8, as added Pub. L. 90–401, § 4, July 15, 1968, 82 Stat. 355, amended Pub. L. 91–308, § 3, July 7, 1970, 84 Stat. 410, renumbered Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459, and amended Pub. L. 93–303, § 3, June 7, 1974, 88 Stat. 194.)

AMENDMENTS

1974—Pub. L. 93–303 substituted "section 7(a)(1)" for "section 6(a)(1)", which, for purposes of codification, is translated as "section 460*l*–9(a)(1)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 450bb–2, 460*l*–5, 460*l*–6a, 460*l*–7, 460*l*–8, 460*l*–10c, 460*l*–11, 1534 of this title; title 40 App., section 214.

§§ 460*l*–10b, 460*l*–10c.

Sections 9 and 10 of Pub. L. 88–578 renumbered 10 and 11 of Pub. L. 88–578 by Pub. L. 92–347, § 2, July 11, 1972, 86 Stat. 459.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 460*l*–6a, 1534 of this title; title 40 App., section 214.

§ 460*l*–11. Transfers to and from land and water conservation fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–6a, 1534 of this title and in title 7 section 1011; title 40 App., section 214.

§ 460*l*–12. Recreation and fish and wildlife benefits of Federal multiple-purpose water resources projects; declaration of policy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 sections 600f–3, 600g–3, 615fff, 615kkk, 615mmm, 615sss, 615yyy, 615ffff.

§ 460*l*–13. Non-Federal administration of project land and water areas; costs; compliance prerequisite to determination of economic benefits, allocation of costs, and Federal bearing of costs; execution of agreement before commencement of project construction; non-Federal share of costs.

(a) If, before authorization of a project, non-Federal public bodies indicate their intent in writing to agree to administer project land and water areas for recreation or fish and wildlife enhancement or for both of these purposes pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and to bear not less than one-half the separable costs of the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement and all the costs of operation, maintenance, and replacement incurred therefor—

* * * * *

(3) not more than one-half the separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement and all the joint costs of the project allocated to recreation and fish and wildlife enhancement shall be borne by the United States and be nonreimbursable.

* * * * *

(As amended Pub. L. 93–251, title I, § 77(a)(1), (2), Mar. 7, 1974, 88 Stat. 33.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–251 substituted in text preceding item (1) "separable costs of the project allocated to recreation, and to bear one-quarter of such costs allocated to fish and wildlife enhancement" for "separable costs of the project allocated to either or both of said purposes, as the case may be" and in item (3) "separable costs of the project allocated to recreation and exactly three-quarters of such costs allocated to fish and wildlife enhancement" for "separable costs", respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 77(b) of Pub. L. 93–251 provided that: "The amendments made by this section [to subsec. (a) of this section and section 460*l*–14(b)(1) of this title] shall apply to all projects the construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974]."

COST-SHARING REQUIREMENTS

Section 77(c) of Pub. L. 93–251 provided that: "In the case of any project (1) authorized subject to specific cost-sharing requirements which were based on the same percentages as those established in the Federal Water Project Recreation Act [section 460*l*–12 et seq. of this title], and (2) construction of which is not substantially completed on the date of enactment of this Act [Mar. 7, 1974], the cost-sharing requirements for such project shall be the same percentages as are established by the amendments made by subsection (a) of this section [to subsec. (a) of this section and section 460*l*–14(b)(1) of this title] for projects which are subject to the Federal Water Project Recreation Act [section 460*l*–12 et seq. of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–14, 460*l*–17 of this title; title 43 sections 600f–3, 600g–3, 615fff, 615kkk, 615mmm, 615sss, 615yyy, 615ffff.

§ 460*l*–14. Facilities of project modifications to be provided without written indication of intent.

* * * * *

(b) Preservation of recreation and fish and wildlife enhancement potential; execution of agreements within ten year period; disposition of lands in absence of such agreements, prohibition against uses conflicting with project purposes, and preference to uses promoting and not detracting from such potential.

Notwithstanding the absence of an indication of intent as specified in section 460*l*–13(a) of this title, lands may be provided in connection with project construction to preserve the recreation and fish and wildlife enhancement potential of the project:

(1) If non-Federal public bodies execute an agreement within ten years after initial operation of the project (which agreement shall provide that the non-Federal public bodies will administer project land and water areas for recreation or fish and wildlife enhancement or both pursuant to the plan for the development of the project approved by the head of the agency having administrative jurisdiction over it and will bear not less than one-half the costs of lands, facilities, and project modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement, and all costs of operation, maintenance, and replacement attributable thereto) the remainder of the costs of lands, facilities, and project modifications provided pursuant to this paragraph shall be nonreimbursable. Such agreement and subsequent development, however, shall not be the basis for any reallocation of joint costs of the project to recreation or fish and wildlife enhancement.

* * * * *

(As amended Pub. L. 93–251, title I, § 77(a)(3), Mar. 7, 1974, 88 Stat. 33.)

AMENDMENTS

1974—Subsec. (b)(1). Pub. L. 93–251 substituted "modifications provided for recreation, and will bear one-quarter of such costs for fish and wildlife enhancement" for "modifications provided for either or both of those purposes, as the case may be".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–251 applicable to all projects the construction of which was not substantially completed on Mar. 7, 1974, see section 77(b) of Pub. L. 93–251, set out as a note under section 460*l*–13 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*–17, 460*l*–18 of this title; title 43 sections 600f–3, 600g–3, 615fff, 615kkk, 615mmm, 615sss, 615yyy, 615ffff, 615*llll*.

§§ 460*l*–15 to 460*l*–21.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in title 43 sections 600f–3, 600g–3, 615fff, 615kkk, 615mmm, 615sss, 615yyy, 615ffff.

OZARK NATIONAL SCENIC RIVERWAYS

§ 460m–1. Acquisition of lands, easements, etc.; exchange of lands; consent of State; reversion to State; administrative jurisdiction of Federal lands or waters.

The Secretary may, within the area designated or altered pursuant to section 460m–3 of this title, acquire lands and interests therein, including scenic easements, by such means as he may deem to be in the public interest: *Provided*, That scenic easements may only be acquired with the consent of the owner of the lands or waters thereof: *And provided further*, That any parcel of land containing not more than five hundred acres, which borders either the Current River or the Jacks Fork River, and which is being primarily used for agricultural purposes, shall be acquired by the Secretary in its entirety unless the owner of any such parcel consents to the acquisition of a part thereof. Property so acquired which lies outside the boundary generally depicted on the map referred to in section 460m of this title may be exchanged by the Secretary for any land of approximately equal value within the boundaries. Lands and waters owned by the State of Missouri within such area may be acquired with the consent of the State and, notwithstanding any other provision of law, subject to provision for reversion to such State conditioned upon continued use of the property for National Scenic Riverway. Federally owned lands or water lying within such area shall, upon establishment of the area pursuant to section 460m–3 of this title, be transferred to the administrative jurisdiction of the Secretary, without transfer of funds, for administration as part of the Ozark National Scenic Riverways. (As amended Pub. L. 92–272, title IV, § 401, Apr. 11, 1972, 86 Stat. 122.)

AMENDMENTS

1972—Pub. L. 92–272 substituted provisions authorizing lands and waters owned by the State of Missouri to be acquired with the consent of the State, subject to reversion to such State conditioned upon the continued use of the property for the National Scenic Riverway, for provisions authorizing lands and waters owned by the State of Missouri to be acquired only with the consent of the State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–4, 460m–5, 460m–6, 460m–7 of this title.

§ 460m–7. Appropriations.

There are hereby authorized to be appropriated such sums (but not more than $10,804,000 for the acquisition of lands or interests in lands) as are necessary to carry out the purposes of sections 460m to

460m–7 of this title. (As amended Pub. L. 92–272, title I, § 101(7), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased the maximum amount authorized to be appropriated for the acquisition of lands or interests in lands from not more than $7,000,000 to not more than $10,804,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–4, 460m–5, 460m–6 of this title.

BUFFALO NATIONAL RIVER [NEW]

§ 460m–8. Establishment.

For the purposes of conserving and interpreting an area containing unique scenic and scientific features, and preserving as a free-flowing stream an important segment of the Buffalo River in Arkansas for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the "Secretary") may establish and administer the Buffalo National River. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed Buffalo National River" numbered NR–BUF–7103 and dated December 1967, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary is authorized to make minor revisions of the boundaries of the national river when necessary, after advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, but the total acreage within such boundaries shall not exceed ninety-five thousand seven hundred and thirty acres. (Pub. L. 92–237, § 1, Mar. 1, 1972, 86 Stat. 44.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–11, 460m–12 of this title.

§ 460m–9. Acquisition of lands and waters.

(a) Donation, purchase, and exchange; reimbursement of State of Arkansas.

Within the boundaries of the Buffalo National River, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the State of Arkansas or a political subdivision thereof may be acquired only by donation: *Provided,* That the Secretary may, with funds appropriated for development of the area, reimburse such State for its share of the cost of facilities developed on State park lands if such facilities were developed in a manner approved by the Secretary and if the development of such facilities commenced subsequent to March 1, 1972: *Provided further,* That such reimbursement shall not exceed a total of $375,000. When an individual tract of land is only partly within the boundaries of the national river, the Secretary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the national river may be exchanged by the Secretary for non-Federal lands within the national river boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949, as amended. With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the national river may be transferred without consideration to the administrative jurisdiction of the Secretary for administration as part of the national river.

(b) Retention of rights.

Except for property which the Secretary determines to be necessary for the purposes of administration, development, access or public use, an owner or owners (hereafter referred to as "owner") of any improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary or any owner of lands used solely for agricultural purposes (including, but not limited to, grazing) may retain, as a condition of the acquisition of such property or lands, a right of use and occupancy of such property for such residential or agricultural purposes. The term of the right retained shall expire upon the death of the owner or the death of his spouse, whichever occurs later, or in lieu thereof, after a definite term which shall not exceed twenty-five years after the date of acquisition. The owner shall elect, at the time of conveyance, the term of the right reserved. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner. Such right may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of such property in accordance with the purposes of sections 460m–8 to 460m–14 of this title. Upon a determination that the property, or any portion thereof, has ceased to be used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(c) Improved property.

As used in this section the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before September 3, 1969, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use. (Pub. L. 92–237, § 2, Mar. 1, 1972, 86 Stat. 44.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (a), is act June 30, 1949, ch. 288, 63 Stat. 378, which was classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, chapter 4 of Title 41, Public Contracts, and former chapter 11 [now covered by chapters 21, 25, 27, 29, and 31] of Title 44, Public Printing and Documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–11, 460m–12 of this title.

§ 460m–10. Hunting and fishing; rules and regulations.

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the Buffalo National River in accordance with applicable Federal and State laws, except that he may designate zones where and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the Arkansas Fish and Game Commission. (Pub. L. 92–237, § 3, Mar. 1, 1972, 86 Stat. 45.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–11, 460m–12 of this title.

§ 460m–11. Water resource projects.

The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting the Buffalo National River and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the Buffalo National River or on any stream tributary thereto which will not invade the area or unreasonably diminish the scenic, recreational, and fish and wildlife values present in the area on March 1, 1972. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction on any such project, whether heretofore or hereafter authorized, without, at least sixty days in advance, (i) advising the Secretary, in writing, of its intention so to do and (ii) reporting to the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate, respectively, the nature of the project involved and the manner in which such project would conflict with the purposes of sections 460m–8 to 460m–14 of this title or would affect the national river and the values to be protected by it under sections 460m–8 to 460m–14 of this title. (Pub. L. 92–237, § 4, Mar. 1, 1972, 86 Stat. 45.)

REFERENCES IN TEXT

The Federal Power Act, referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, which is classified to section 791a et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–12 of this title.

§ 460m–12. Administration, protection, and development.

The Secretary shall administer, protect, and develop the Buffalo National River in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the conservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of sections 460m–8 to 460m–14 of this title. (Pub. L. 92–237, § 5, Mar. 1, 1972, 86 Stat. 45.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–11 of this title.

§ 460m–13. Suitability for preservation as a wilderness; area review and report to President before March 1, 1975.

Within three years from March 1, 1972, the Secretary shall review the area within the boundaries of the national river and shall report to the President, in accordance with section 1132 (c) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the national river for preservation as a wilderness, and any designation of any such area as a wilderness, shall be accomplished in accordance with said section 1132(c) and (d) of this title. (Pub. L. 92–237, § 6, Mar. 1, 1972, 86 Stat. 46.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–11, 460m–12 of this title.

§ 460m–14. Authorization of appropriations.

For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than $16,115,000. For development of the national river, there are authorized to be appropriated not more than $283,000 in fiscal year 1974; $2,923,000 in fiscal year 1975; $3,643,000 in fiscal year 1976; $1,262,000 in fiscal year 1977; and $1,260,000 in fiscal year 1978. The sums appropriated each year shall remain available until expended. (Pub. L. 92–237, § 7, Mar. 1, 1972, 86 Stat. 46.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460m–9, 460m–11, 460m–12 of this title.

LAKE MEAD NATIONAL RECREATION AREA

§ 460n–9. Authorization of appropriations.

There are hereby authorized to be appropriated not more than $7,100,000 for the acquisition of land and interests in land pursuant to section 460n–1 of this title. (As amended Pub. L. 93–477, title I, § 101(12), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93–477 substituted "$7,100,000" for "$1,200,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460n, 460n–2, 460n–3, 460n–5, 460n–6 of this title.

DELAWARE WATER GAP NATIONAL RECREATION AREA

§ 460o–1. Acquisition of lands.

* * * * *

(d) Noncommercial residential occupancy for life or fixed term of years; price for property; "improved residential property" defined; waiver of relocation assistance benefits or rights.

The beneficial owner, not being a corporation, of a freehold interest acquired before January 1, 1965, in improved residential property within the area to be acquired by the Secretary of the Army under authority of sections 460o to 460o–7 of this title, the continued use of which property for noncommercial residential purposes for a limited time will not, in the judgment of the Secretary of the Interior, unduly interfere with the development of public-use facilities for the national recreation area and will not, in the judgment of the Secretary of the Army, unduly interfere with the operation of the Tocks Island Reservoir project, may retain a right of use and occupancy of such property for noncommercial residential purposes for, as said owner may elect, either (i) a period terminating upon his death or the death of his spouse, whichever occurs later, or (ii) a term of not more than twenty-five years: *Provided,* That in no case shall the period or term for which such right of use and occupancy is retained extend beyond the term of the freehold interest acquired by the United States. The price payable to the owner of such property shall be reduced by an amount equal to the value of the right retained. As used in sections 460o to 460o–7 of this title "improved residential property" means a single-family year-round dwelling, the construction of which was begun before January 21, 1963, which dwelling serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which land the Secretary of the Interior or the Secretary of the Army, as the case may be, finds is reasonably necessary for the owner's continued use and occupancy of the dwelling: *Provided, further,* That whenever an owner of property elects to retain a right of use and occupancy pursuant to sections 460o to 460o–7 of this title, such owner shall be deemed to have waived any benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (As amended Pub. L. 92–575, § 2, Oct. 27, 1972, 86 Stat. 1250.)

REFERENCES IN TEXT

For classification of Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, referred to in subsec. (d), see Short Title note set out under section 4601 of Title 42, The Public Health and Welfare.

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–575 provided for waiver of benefits or rights under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, upon election to retain right of use and occupancy pursuant to sections 460o to 460o–7 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460o–2, 460o–4, 460o–6, 460o–7 of this title.

§ 460o–7. Authorization of appropriations.

There are hereby authorized to be appropriated to the Secretary of the Interior for the acquisition of lands and interests in land pursuant to the provisions of section 460o–1 of this title and for expenses incident thereto not more than $65,000,000 which moneys shall be transferred to the Secretary of the Army. There are also authorized to be appropriated not more than $18,200,000 for the cost of installing and constructing recreation facilities on the lands and interests in lands so acquired. The amounts herein authorized to be appropriated are supplemental to those authorized to be appropriated for the Tocks Island project and related facilities by the Flood Control Act of 1962 (76 Stat. 1182). (As amended Pub. L. 92–575, § 1, Oct. 27, 1972, 86 Stat. 1250.)

AMENDMENTS

1972—Pub. L. 92–575 increased appropriations authorization to $65,000,000 from $37,412,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460o–1, 460o–2, 460o–3, 460o–4, 460o–6 of this title.

PICTURED ROCKS NATIONAL LAKESHORE

§ 460s–3. Pictured Rocks National Lakeshore Advisory Commission.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

BIGHORN CANYON NATIONAL RECREATION AREA

§ 460t–4. Authorization of appropriations.

There is hereby authorized to be appropriated not more than $780,000 for the acquisition of land and interests in land pursuant to sections 460t to 460t–4 of this title. (As amended Pub. L. 92–272, title I, § 101(3), Apr. 11, 1972, 86 Stat. 120.)

AMENDMENTS

1972—Pub. L. 92–272 increased the authorization of appropriations from not more than $355,000 to not more than $780,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460t–1, 460t–2 of this title.

INDIANA DUNES NATIONAL LAKESHORE

§ 460u–9. Authorization of appropriations.

There are hereby authorized to be appropriated not more than $35,526,000 for the acquisition of land and interests in land pursuant to sections 460u to 460u–9 of this title. (As amended Pub. L. 93–477, title I, § 101(6), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93-477 substituted "$35,526,000" for "$27,900,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460u, 460u-1, 460u-2, 460u-3, 460u-4, 460u-6, 460u-7, 460u-8 of this title.

APOSTLE ISLANDS NATIONAL LAKESHORE

§ 460w-7. Authorization of appropriations.

There are authorized to be appropriated not more than $5,250,000 for the acquisition of lands and interests in lands and not more than $5,000,000 for the development of the Apostle Islands National Lakeshore. (As amended Pub. L. 93-477, title I, § 101(11), Oct. 26, 1974, 88 Stat. 1445.)

AMENDMENTS

1974—Pub. L. 93-477 substituted "$5,250,000" for "$4,250,000".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460w-1 of this title.

SLEEPING BEAR DUNES NATIONAL LAKESHORE

§ 460x-3. Sleeping Bear Dunes National Lakeshore Advisory Commission.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix of Title 5, Government Organization and Employees.

§ 460x-14. Authorization of appropriations; adjustments.

There are authorized to be appropriated not more than $57,753,000 for the acquisition of lands and interests in lands and not more than $18,769,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. (As amended Pub. L. 93-477, title I, § 101(13), Oct. 26, 1974, 88 Stat. 1446.)

AMENDMENTS

1974—Pub. L. 93-477 substituted "$57,753,000" for "$19,800,000".

OREGON DUNES NATIONAL RECREATION AREA [NEW]

§ 460z. Establishment.

In order to provide for the public outdoor recreation use and enjoyment of certain ocean shorelines and dunes, forested areas, fresh water lakes, and recreational facilities in the State of Oregon by present and future generations and the conservation of scenic, scientific, historic, and other values contributing to public enjoyment of such lands and waters, there is hereby established, subject to valid existing rights, the Oregon Dunes National Recreation Area (hereinafter referred to as the "recreation area"). (Pub. L. 92-260, § 1, Mar. 23, 1972, 86 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z-1, 460z-2, 460z-4, 460z-5, 460z-6, 460z-12 of this title.

§ 460z-1. Administration, protection, and development.

The administration, protection, and development of the recreation area shall be by the Secretary of Agriculture (hereinafter called the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute the attainment of the purposes set forth in section 460z of this title. (Pub. L. 92-260, § 2 Mar. 23, 1972, 86 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z-4 to 460z-6, 460z-12 of this title.

§ 460z-2. Inland sector; establishment as buffer sector.

The portion of the recreation area delineated as the "Inland Sector" on the map referenced in section 460z-3 of this title is hereby established as an inland buffer sector in order to promote such management and use of the lands, waters, and other properties within such sector as will best protect the values which contribute to the purposes set forth in section 460z of this title. (Pub. L. 92-260, § 3, Mar. 23, 1972, 86 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z-4 to 460z-6, 460z-12 of this title.

§ 460z-3. Boundary map; revision.

The boundaries of the recreation area, as well as the boundaries of the inland sector included therein, shall be as shown on a map entitled "Proposed Oregon Dunes National Recreation Area" dated May 1971, which is on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture, and to which is attached and hereby made a part thereof a detailed description by metes and bounds of the exterior boundaries of the recreation area and of the inland sector. The Secretary may by publication of a revised map or description in the Federal Register correct clerical or typographical errors in said map or descriptions. (Pub. L. 92-260, § 4, Mar. 23, 1972, 86 Stat. 99.)

SIUSLAW NATIONAL FOREST

The boundaries of the Siuslaw National Forest were extended by section 6 of Pub. L. 92-260 to include all lands described in accordance with this section. See note under sections 486a-486w of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z-2, 460z-4 to 460z-6, 460z-12 of this title.

§ 460z-4. Transfer of Federal property.

Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of sections 460z to 460z-13 of this title, but lands presently administered by the United States Coast Guard or the United States Corps of Engineers may continue to be used by such agencies to the

extent required. (Pub. L. 92–260, § 5, Mar. 23, 1972, 86 Stat. 99.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–5, 460z–6, 460z–12 of this title.

§ 460z–5. Land acquisition in inland sector.

Within the inland sector established by section 460z–2 of this title the Secretary may acquire the following classes of property only with the consent of the owner:

(a) improved property as hereinafter defined;

(b) property used for commercial or industrial purposes if such commercial or industrial purposes are the same such purposes for which the property was being used on December 31, 1970, or such commercial or industrial purposes have been certified by the Secretary or his designee as compatible with or furthering the purposes of sections 460z to 460z–13 of this title;

(c) timberlands under sustained yield management so long as the Secretary determines that such management is being conducted in accordance with standards for timber production, including but not limited to harvesting reforestation, and debris cleanup, not less stringent than management standards imposed by the Secretary on comparable national forest lands: *Provided,* That the Secretary may acquire such lands or interests therein without the consent of the owner if he determines that such lands or interests are essential for recreation use or for access to or protection of recreation developments within the purposes of sections 460z to 460z–13 of this title. In any acquisition of such lands or interests the Secretary shall, to the extent practicable, minimize the impact of such acquisition on access to or the reasonable economic use for sustained yield forestry of adjoining lands not acquired; and

(d) property used on December 31, 1970, primarily for private, noncommercial recreational purposes if any improvements made to such property after said date are certified by the Secretary of Agriculture or his designee as compatible with the purposes of sections 460z to 460z–13 of this title.

(Pub. L. 92–260, § 7, Mar. 23, 1972, 86 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4, 460z–6, 460z–12 of this title.

§ 460z–6. Land acquisition in recreation area; donation and exchange; railway right-of-way; retention rights of owners of improved property.

(a) Within the boundaries of the recreation area lands, waters, and interests therein owned by or under the control of the State of Oregon or any political subdivision thereof may be acquired only by donation or exchange.

(b) No part of the Southern Pacific Railway right-of-way within the boundaries of the recreation area may be acquired without the consent of the railway, so long as it is used for railway purposes: *Provided,* That the Secretary may condemn such easements across said right-of-way as he deems necessary for ingress and egress.

(c) Any person owning an improved property, as hereafter defined, within the recreation area may reserve for himself and his assigns, as a condition of the acquisition of such property, a right of use and occupancy of the residence and not in excess of three acres of land on which such residence is situated. Such reservation shall be for a term ending at the death of the owner, or the death of his spouse, whichever occurs later, or, in lieu thereof, for a definite term not to exceed twenty-five years: *Provided,* That the Secretary may exclude from such reserved property any lands or waters which he deems necessary for public use, access, or development. The owner shall elect, at the time of conveyance, the term of the right to be reserved. Where any such owner retains a right of use and occupancy as herein provided, such right may during its existence be conveyed or leased in whole, but not in part, for noncommercial residential purposes. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner. At any time subsequent to the acquisition of such property the Secretary may, with the consent of the owner of the retained right of use and occupancy, acquire such right, in which event he shall pay to such owner the fair market value of the remaining portion of such right.

(d) The term "improved property" wherever used in sections 460z to 460z–13 of this title shall mean a detached one-family dwelling the construction of which was begun before December 31, 1970, together with any structures accessory to it and the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary finds necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use. (Pub. L. 92–260, § 8, Mar. 23, 1972, 86 Stat. 100.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4, 460z–5, 460z–12 of this title.

§ 460z–7. Hunting, fishing, and trapping.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Oregon, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. (Pub. L. 92–260, § 9, Mar. 23, 1972, 86 Stat. 101.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

§ 460z–8. Mining restriction.

The lands within the recreation area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments

thereto. (Pub. L. 92–260, § 10, Mar. 23, 1972, 86 Stat. 101.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

§ 460z–9. Water utilization.

(a) The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, the investigation for, appropriation, storage, and withdrawal of ground water, surface water, and lake, stream, and river water from the recreation area and the conveyance thereof outside the boundaries of the recreation area for beneficial use in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972: *Provided*, That nothing herein shall prohibit or authorize the prohibition of the use of water from Tahkenitch or Siltcoo Lakes in accordance with permission granted by the State of Oregon prior to March 23, 1972, in connection with certain industrial plants developed or being developed at or near Gardiner, Oregon.

(b) The Secretary is authorized and directed, subject to applicable water quality standards now or hereafter established, to permit, subject to reasonable rules and regulations, transportation and storage in pipelines within and through the recreation area of domestic and industrial wastes in accordance with applicable laws of the United States and of the State of Oregon if permission therefor has been obtained from the State of Oregon before March 23, 1972.

(c) The Secretary is further authorized, subject to applicable water quality standards now or hereafter established, to grant such additional easements and rights, in terms up to perpetuity, as in his judgment would be appropriate and desirable for the effective use of the rights to water and the disposal of waste provided for herein and for other utility and private purposes if permission therefor has been obtained from the State of Oregon, subject to such reasonable terms and conditions as he deems necessary for the protection of the scenic, scientific, historic, and recreational features of the recreation area. (Pub. L. 92–260, § 11, Mar. 23, 1972, 86 Stat. 101.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

§ 460z–10. Advisory Council; establishment; membership; functions.

(a) The Secretary shall establish an advisory council for the Oregon Dunes National Recreation Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management and development of the recreation area. The members of the advisory council, who shall not exceed fifteen in number, shall serve for individual staggered terms of three years each and shall be appointed by the Secretary as follows:

(i) a member to represent each county in which a portion of the recreation area is located, each such appointee to be designated by the respective governing body of the county involved;

(ii) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon;

(iii) not to exceed eleven members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the recreation area; and

(iv) the Secretary shall designate one member to be Chairman and shall fill vacancies in the same manner as the original appointment.

(b) The Secretary shall, in addition to his consultation with the advisory council, seek the views of other private groups and individuals with respect to administration of the recreation area.

(c) The members shall not receive any compensation for their services as members of the council, as such, but the Secretary is authorized to pay expenses reasonably incurred by the council in carrying out its responsibilities. (Pub. L. 92–260, § 12, Mar. 23, 1972, 86 Stat. 102.)

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

§ 460z–11. Area review; report to the President; wilderness designation.

Within three years from March 23, 1972, the Secretary shall review the area within the boundaries of the recreation area and shall report to the President, in accordance with section 1132 (b) and (d) of this title, his recommendation as to the suitability or nonsuitability of any area within the recreation area for preservation as a wilderness, and any designation of any such area as a wilderness shall be accomplished in accordance with said section 1132 (c) and (d) of this title. (Pub. L. 92–260, § 13, Mar. 23, 1972, 86 Stat. 102.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

§ 460z–12. Federal-State cooperation.

The Secretary shall cooperate with the State of Oregon or any political subdivision thereof in the administration of the recreation area and in the administration and protection of lands within or adjacent to the recreation area owned or controlled by the State or political subdivision there. Nothing in sections 460z to 460z–13 of this title shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the recreation area consistent with sections 460z to 460z–13 of this title, or of its right to tax persons, corporations, franchises, or other non-Federal property, including mineral or other interests, in or on lands or waters within the recreation

area. (Pub. L. 92–260, § 14, Mar. 23, 1972, 86 Stat. 102.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6 of this title.

§ 460z–13. Authorization of appropriations.

Money appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area, but not more than $2,500,000 is authorized to be appropriated for such purposes. For development of the recreation area, not more than $12,700,000 is authorized to be appropriated. (Pub. L. 92–260, § 15, Mar. 23, 1972, 86 Stat. 102.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460z–4 to 460z–6, 460z–12 of this title.

SAWTOOTH NATIONAL RECREATION AREA [NEW]

§ 460aa. Establishment of area.

(a) Statement of purposes.

In order to assure the preservation and protection of the natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, the Sawtooth National Recreation Area is hereby established.

(b) Publication in Federal Register; description of boundaries.

The Sawtooth National Recreation Area (hereafter referred to as the "recreation area"), including the Sawtooth Wilderness Area (hereafter referred to as the "wilderness area"), shall comprise the lands generally depicted on the map entitled "Sawtooth National Recreation Area" dated June 1972, which shall be on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture. The Secretary of Agriculture (hereafter referred to as the "Secretary") shall, as soon as practicable after August 22, 1972, publish a detailed description and map showing the boundaries of the recreation area in the Federal Register. (Pub. L. 92–400, § 1, Aug. 22, 1972, 86 Stat. 612.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–1. Administration.

(a) Recreation area.

The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best provide (1) the protection and conservation of the salmon and other fisheries; (2) the conservation and development of scenic, natural, historic, pastoral, wildlife, and other values, contributing to and available for public recreation and enjoyment, including the preservation of sites associated with and typifying the economic and social history of the American West; and (3) the management, utilization, and disposal of natural resources on federally owned lands such as timber, grazing, and mineral resources insofar as their utilization will not substantially impair the purposes for which the recreation area is established.

(b) Wilderness area.

The lands designated as the Sawtooth Wilderness Area, which supersedes the Sawtooth Primitive Area, shall be administered in accordance with the provisions of sections 460aa to 460aa–14 of this title and the provisions of the Wilderness Act, whichever is more restrictive, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act. (Pub. L. 92–400, § 2, Aug. 22, 1972, 86 Stat. 612.)

REFERENCES IN TEXT

Wilderness Act, referred to in subsec. (b), is classified to chapter 23 of this title.

Effective date of this Act, referred to in subsec. (b), means date of enactment of Pub. L. 92–400, which was approved Aug. 22, 1972.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–2, 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–2. Acquisition of land.

(a) Authority of Secretary; manner; limitation; "scenic easement" defined.

Except as provided in section 460aa–3 of this title, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise any lands, or lesser interests therein, including mineral interests and scenic easements, which he determines are needed for the purposes of sections 460aa to 460aa–14 of this title: *Provided,* That acquisitions of lands or interests therein for access to and utilization of public property, and for recreation and other facilities, shall not exceed five per centum of the total acreage of all private property within the recreation area as of the effective date of sections 460aa to 460aa–14 of this title.

As used in sections 460aa to 460aa–14 of this title the term "scenic easement" means the right to control the use of land in order to protect the esthetic values for the purposes of such sections, but shall not preclude the continuation of any use exercised by the owner as of August 22, 1972.

(b) Offers of land; hardship from acquisition delays.

In exercising this authority to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the boundaries described in section 460aa(b) of this title. In considering such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring his property.

(c) Condemnation proceedings.

The Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to accomplish the objectives of sections 460aa to 460aa–14 of this title.

(d) Exchange of property; cash equalization payments.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the State of Idaho which he classifies as suitable for exchange and which is under his administrative jurisdiction. The values of the properties so exchanged shall be approximately equal or, if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(e) Mineral interests.

Nothing in sections 460aa to 460aa–14 of this title shall be construed as limiting the authority of the Secretary to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by such sections withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(f) State lands.

Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(g) Transfer from Federal agency to administrative jurisdiction of Secretary.

Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of sections 460aa to 460aa–14 of this title. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the recreation area and of the national forest within or adjacent to which they are located.

(h) Condemnation authority.

Except as otherwise provided, the Secretary shall have the authority to use condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances. (Pub. L. 92–400, § 3, Aug. 22, 1972, 86 Stat. 612.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1, 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–3. Private land, regulations.

(a) Use, subdivision and development standards; detail and specificity; land differences; amendment; promulgation; civil actions; jurisdiction, complaint, declaratory judgment.

The Secretary shall make and publish regulations setting standards for the use, subdivision, and development of privately owned property within the boundaries of the recreation area. Such regulations shall be generally in furtherance of the purposes of sections 460aa to 460aa–14 of this title and shall have the object of assuring that the highest and best private use, subdivision, and development of such privately owned property is consistent with the purposes of such sections and with the overall general plan of the recreation area. Such regulations shall be as detailed and specific as is reasonably required to accomplish such objective and purpose. Such regulations may differ amongst the several parcels of private land in the boundaries and may from time to time be amended by the Secretary. All regulations adopted under this section shall be promulgated in conformity with the provisions of the Administrative Procedure Act. The United States District Court for the District of Idaho shall have jurisdiction to review any regulations established pursuant to the first sentence of this subsection, upon a complaint filed within six months after the effective date of such regulations, by any affected landowner in an action for a declaratory judgment.

(b) Condemnation restriction; acquisitions limitation.

After publication of such regulations, no privately owned lands shall be acquired by the Secretary by condemnation unless he determines, in his judgment, that such lands are being used, or are in imminent danger of being used, in a manner incompatible with the regulations established pursuant to this section or unless such lands are determined to be necessary for access or development, in which case such acquisitions shall be subject to the 5 per centum limitation established in section 460aa–2(a) of this title. (Pub. L. 92–400, § 4, Aug. 22, 1972, 86 Stat. 613.)

REFERENCES IN TEXT

Administrative Procedure Act, referred to in subsec. (a), is classified to sections 551 et seq. and 701 et seq. of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1, 460aa–2, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–4. Administrative determination of suitability for designation as wilderness areas.

The Secretary shall, as soon as practicable after August 22, 1972, review the undeveloped and unimproved portion or portions of the recreation area as to suitability or nonsuitability for preservation as a part of the National Wilderness Preservation System. In conducting his review, the Secretary shall comply with the provisions of section 1132(d) of this title, relating to public notice, public hearings, and review by State and other agencies, and shall advise the Senate and House of Representatives of his recommendations with respect to the designation as wilderness of the area or areas reviewed. (Pub. L. 92–400, § 5, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–5. Cooperation with other agencies in development and operation of facilities and services; Stanley, restoration.

The Secretary may cooperate with other Federal agencies, with State and local public agencies, and

with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of sections 460aa to 460aa–14 of this title, including, but not limited to, the restoration and maintenance of the historic setting and background of the frontier ranch-type town of Stanley. (Pub. L. 92–400, § 6, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–6. State civil and criminal jurisdiction.

Nothing in sections 460aa to 460aa–14 of this title shall diminish, enlarge, or modify any right of the State of Idaho, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area. (Pub. L. 92–400, § 7, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–7. Hunting and fishing regulations.

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the State of Idaho, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. (Pub. L. 92–400, § 8, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–8. Federal-State water rights.

The jurisdiction of the State and the United States over waters of any stream included in the recreation area shall be determined by established principles of law. Under the provisions of sections 460aa to 460aa–14 of this title, any taking by the United States of a water right which is vested under either State or Federal law at the time of enactment of this Act shall entitle the owner thereof to just compensation. Nothing in sections 460aa to 460aa–14 of this title shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws. (Pub. L. 92–400, § 9, Aug. 22, 1972, 86 Stat. 614.)

REFERENCES IN TEXT

Time of enactment of this Act, referred to in the text, means Aug. 22, 1972, date of enactment of Pub. L. 92–400, which is classified to sections 460aa to 460aa–14 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–12, 460aa–14 of this title.

§ 460aa–9. Mining restriction; Federal lands withdrawn from location, entry, and patent under United States mining laws.

Subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States. (Pub. L. 92–400, § 10, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–10. Land surface protection; regulations.

The Congress hereby recognizes and declares the need to take action to regulate the use of, and protect the surface values of, the Federal lands in the recreation area, and directs that rules and regulations necessary to carry out this section shall be promulgated and issued by the Secretary of Agriculture after consultation with the Secretary of the Interior. Such regulations shall include, when deemed necessary, provisions for control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of such Federal land in connection with any authorized activities on such land, including but not limited to mineral prospecting, exploration, or development operations. (Pub. L 92–400, § 11, Aug. 22, 1972, 86 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–11. Patents; restriction on issuance.

Patents shall not hereafter be issued for locations and claims heretofore made in the recreation area under the mining laws of the United States. (Pub. L. 92–400, § 12, Aug. 22, 1972, 86 Stat. 615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–12. Authorization of appropriations; availability of land and water conservation fund money.

There are authorized to be appropriated for the purposes of sections 460aa to 460aa–14 of this title not more than $19,802,000 for the acquisition of lands and interests in lands and not more than $26,241,000 for development. Money appropriated from the land and water conservation fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area. (Pub. L. 92–400, § 13, Aug. 22, 1972, 86 Stat. 615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–14 of this title.

§ 460aa–13. Area analysis for park or park administrative unit proposal.

(a) Report to Congress.

The Secretary of the Interior, in consultation with appropriate Federal, State, and local agencies, shall make a comprehensive analysis of the natural, economic, and cultural values of the recreation area and the adjacent Pioneer Mountains for the purpose of evaluating the potentiality of establishing therein a national park or other unit of the national park

system. He shall submit a report of the results of the analysis along with his recommendations to the Congress by December 31, 1974.

(b) Considerations manifested in report to Congress.

His report shall show that in making the aforesaid recommendations he took into consideration, among other things—

(1) the feasible alternative uses of the land and the long- and short-term effect of such alternative uses upon, but not limited to, the following—

(A) the State and local economy,

(B) the natural and cultural environment,

(C) the management and use of water resources,

(D) the management of grazing, timber, mineral, and other commercial activities,

(E) the management of fish and wildlife resources,

(F) the continued occupancy of existing homesites, campsites, commercial and public recreation enterprises, and other privately owned properties and the future development of the same,

(G) the interrelation between recreation areas, wilderness areas and park lands, and

(2) the establishment of a national park in the mountain peaks and upland areas together with such portions of the national recreation area as may be necessary and appropriate for the proper administration and public use of and access to such parks lands, leaving the valleys and low-lying lands available for multiple-use purposes.

(c) Master plan, cost estimates and proposed legislation for establishment of park administrative unit.

Any recommendation for the establishment of a unit of the national park system shall be accompanied by (1) a master plan for the development and administration of such unit, indicating proposed boundaries, access or other roads, visitor facilities, and proposed management concepts applicable to such unit; (2) a statement of the estimated Federal cost for acquisition, development, and operation of such unit; and (3) proposed legislation for establishment of such park administrative unit.

(d) Authorization of appropriations.

There are authorized to be appropriated not more than $50,000 to carry out the provisions of this section. (Pub. L. 92–400, § 14, Aug. 22, 1972, 86 Stat. 615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12, 460aa–14 of this title.

§ 460aa–14. Separability of provisions.

If any provision of sections 460aa to 460aa–14 of this title is declared to be invalid, such declaration shall not affect the validity of any other provision of such sections. (Pub. L. 92–400, § 15, Aug. 22, 1972, 86 Stat. 615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460aa–1 to 460aa–3, 460aa–5, 460aa–6, 460aa–8, 460aa–12 of this title.

GOLDEN GATE NATIONAL RECREATION AREA [NEW]

§ 460bb. Establishment of area; statement of purposes.

In order to preserve for public use and enjoyment certain areas of Marin and San Francisco Counties, California, possessing outstanding natural, historic, scenic, and recreational values, and in order to provide for the maintenance of needed recreational open space necessary to urban environment and planning, the Golden Gate National Recreation Area (hereinafter referred to as the "recreation area") is hereby established. In the management of the recreation area, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall utilize the resources in a manner which will provide for recreation and educational opportunities consistent with sound principles of land use planning and management. In carrying out the provisions of sections 460bb to 460bb–5 of this title, the Secretary shall preserve the recreation area, as far as possible, in its natural setting, and protect it from development and uses which would destroy the scenic beauty and natural character of the area. (Pub. L. 92–589, § 1, Oct. 27, 1972, 86 Stat. 1299.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb–2 to 460bb–5 of this title.

§ 460bb–1. Composition and boundaries; boundary revisions: notification of Congressional committees; publication in Federal Register.

(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled "Revised Boundary Map, Golden Gate National Recreation Area, numbered NRA–GG–80,003–G, and dated September 1974," which shall include, in addition to the existing properties within the Golden Gate National Recreation Area, the following:

Marin County:

(1) Allan Associates, Incorporated property, 38.89 acres,

(2) County of Marin and Tamalpais Community Services District lands, 22.94 acres,

(3) Ghilotti Brothers property, 10.40 acres,

(4) Oakwood Valley area, various properties, 208.89 acres,

(5) Olds property, 207.56 acres,

(6) Wolfback Ridge area, various properties, approximately 265 acres, including approximately 30 acres known as South Ridge Lands: *Provided*, That the Secretary is authorized to acquire such interest as he deems reasonably necessary to preserve the scenic quality of the 9.47 acres designated for scenic protection,

(7) Keller property, Stinson Beach, 10.59 acres,

(8) Leonard property, Stinson Beach, 8.25 acres,

(9) Muir Beach properties, 3.94 acres.

San Francisco County:

Haslett Warehouse; and shall exclude the following:

(1) Leonard (homesite), 10.03 acres,

(2) Panoramic Highway area, Stinson Beach, 40.65 acres.

(b) The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate (hereinafter referred to as the "committees") in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register. (Pub. L. 92–589, § 2, Oct. 27, 1972, 86 Stat. 1299, amended Pub. L. 93–544, Dec. 26, 1974, 88 Stat. 1741.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–544 substituted the Revised Boundary Map numbered NRA–GG–80,003–G, dated September 1974, with a list of additional properties for the Boundary Map numbered NRA–GG–80,003A, sheets 1 through 3, dated July, 1972, as the description of the land comprising the recreation area.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb, 460bb–2 to 460bb–5 of this title.

§ 460bb–2. Acquisition policy.

(a) Authority of Secretary; exchange of property; disposal of certain lands; transfer from Federal agency to administrative jurisdiction of Secretary; facilities and improvements under permit from Secretary of Army.

Within the boundaries of the recreation area, the Secretary may acquire lands, improvements, waters, or interests therein, by donation, purchase, exchange or transfer. Any lands, or interests therein, owned by the State of California or any political subdivision thereof, may be acquired only by donation. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries. Any portion of land acquired outside the boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949, as amended: *Provided*, That no disposal shall be for less than fair market value. Except as hereinafter provided, Federal property within the boundaries of the recreation area is hereby transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of sections 460bb to 460bb–5 of this title, subject to the continuation of such existing uses as may be agreed upon between the Secretary and the head of the agency formerly having jurisdiction over the property. Notwithstanding any other provision of law, the Secretary may develop and administer for the purposes of sections 460bb to 460bb–5 of this title structures or other improvements and facilities on lands for which he receives a permit of use and occupancy from the Secretary of the Army.

(b) Transfer of certain properties to administrative jurisdiction of Secretary; military properties, reservation of use and occupancy by Secretary of Army; radio receiver station, retention of jurisdiction when not superfluous.

Fort Cronkhite, Fort Barry, and the westerly one-half of Fort Baker, in Marin County, California, as depicted on the map entitled "Golden Gate Military Properties" numbered NRAGG–20,002 and dated January 1972, which shall be on file and available for public inspection in the offices of the National Park Service, are hereby transferred to the jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this title, subject to continued use and occupancy by the Secretary of the Army of those lands needed for existing air defense missions, reserve activities and family housing, until he determines that such requirements no longer exist. The Coast Guard Radio Receiver Station, shall remain under the jurisdiction of the Secretary of the Department in which the Coast Guard is operating. When this station is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this title.

(c) Same; military property; public service facilities; construction, maintenance, and determinations of identity and location by Secretary of Army.

The easterly one-half of Fort Baker in Marin County, California, shall remain under the jurisdiction of the Department of the Army. When this property is determined by the Department of Defense to be excess to its needs, it shall be transferred to the jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this title. The Secretary of the Army shall grant to the Secretary reasonable public access through such property to Horseshoe Bay, together with the right to construct and maintain such public service facilities as are necessary for the purposes of sections 460bb to 460bb–5 of this title. The precise facilities and location thereof shall be determined between the Secretary and the Secretary of the Army.

(d) Presidio of San Francisco; use and occupation of certain acreage by Secretary.

Upon enactment, the Secretary of the Army shall grant to the Secretary the irrevocable use and occupancy of one hundred acres of the Baker Beach area of the Presidio of San Francisco, as depicted on the map referred to in subsection (b) of this section.

(e) Same; use and occupancy of airfield acreage by Secretary.

The Secretary of the Army shall grant to the Secretary within a reasonable time, the irrevocable use and occupancy of forty-five acres of the Crissy Army Airfield of the Presidio, as depicted on the map referred to in subsection (b) of this section.

(f) Same; transfer of remainder to administrative jurisdiction of Secretary; use and occupancy by Coast Guard under permit from Secretary.

When all or any substantial portion of the remainder of the Presidio is determined by the Department of Defense to be excess to its needs, such lands shall be transferred to the jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this

title. The Secretary shall grant a permit for continued use and occupancy for that portion of said Fort Point Coast Guard Station necessary for activities of the Coast Guard.

(g) Transfer of certain Coast Guard properties to administrative jurisdiction of Secretary; navigational aids: maintenance and operation by Coast Guard and plans for access new installations.

Point Bonita, Point Diablo, and Lime Point shall remain under the jurisdiction of the Secretary of the Department in which the Coast Guard is operating. When this property is determined to be excess to the needs of the Coast Guard, it shall be transferred to the jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this title. The Coast Guard may continue to maintain and operate existing navigational aids: *Provided,* That access to such navigational aids and the installation of necessary new navigational aids within the recreation area shall be undertaken in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Department in which the Coast Guard is operating and which are consistent with both the purposes of sections 460bb to 460bb–5 of this title and the purpose of existing statutes dealing with establishment, maintenance, and operation of navigational aids.

(h) Transfer of certain property of Navy Department to administrative jurisdiction of Secretary.

That portion of Fort Miley comprising approximately one and seven-tenths acres of land presently used and required by the Secretary of the Navy for its inshore, underseas warfare installations shall remain under the administrative jurisdiction of the Department of the Navy until such time as all or any portion thereof is determined by the Department of Defense to be excess to its needs, at which time such excess portion shall be transferred to the administrative jurisdiction of the Secretary for purposes of sections 460bb to 460bb–5 of this title.

(i) New construction; limitation; exceptions.

New construction and development within the recreation area on property remaining under the administrative jurisdiction of the Department of the Army and not subject to the provisions of subsection (d) or (e) of this section shall be limited to that which is required to accommodate facilities being relocated from property being transferred under sections 460bb to 460bb–5 of this title to the administrative jurisdiction of the Secretary or which is directly related to the essential missions of the Sixth United States Army: *Provided, however,* That any construction on presently undeveloped open space may be undertaken only after prior consultation with the Secretary. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.

(j) Owner's reservation of right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; adjustment of compensation; termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right.

The owner of improved property on the date of its acquisition by the Secretary under sections 460bb to 460bb–5 of this title may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purpose of sections 460bb to 460bb–5 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(k) Improved property defined.

The term "improved property", as used in subsection (j) of this section, means a detached, noncommercial residential dwelling, the construction of which was begun before June 1, 1971, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(*l*) Relocation assistance benefits and rights; waiver through retention of right of use and occupancy; displaced person status of owner.

Whenever an owner of property elects to retain a right of use and occupancy as provided for in sections 460bb to 460bb–5 of this title, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of Title 42, and for the purposes of those sections such owner shall not be considered a displaced person as defined in section 4601(6) of Title 42.

(m) Acquisition of land; contract authority; installment payments; interest rate; provisions applicable to judgments against United States.

Notwithstanding any other provision of law, the Secretary shall have the same authority with respect to contracts for the acquisition of land and interests in land for the purposes of sections 460bb to 460bb–5 of this title as was given the Secretary of the Treasury for other land acquisitions by section 261 of Title 40 relating to purchase of sites for public buildings, and the Secretary and the owner of land to be acquired under sections 460bb to 460bb–5 of this title may agree that the purchase price will be paid in periodic installments over a period that does not exceed ten years, with interest on the unpaid balance thereof at a rate which is not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on the installments. Judgments against

the United States for amounts in excess of the deposit in court made in condemnation actions shall be subject to the provisions of section 724a of Title 31 and sections 2414 and 2517 of Title 28. (Pub. L. 92–589, § 3, Oct. 27, 1972, 86 Stat. 1299.)

REFERENCES TO TEXT

The Federal Property and Administrative Services Act, as amended, referred to in the text, is Act June 30, 1949, c. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40 Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former Title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb, 460bb–3 to 460bb–5 of this title.

§ 460bb–3. Administration.

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; provisions applicable to Muir Woods National Monument and Fort Point National Historic Site.

The Secretary shall administer the lands, waters and interests therein acquired for the recreation area in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of sections 460bb to 460bb–5 of this title. Notwithstanding their inclusion within the boundaries of the recreation area, the Muir Woods National Monument and Fort Point National Historic Site shall continue to be administered as distinct and identifiable units of the national park system in accordance with the laws applicable to such monument and historic site.

(b) Federal-State cooperative agreements for police and fire protection.

The Secretary may enter into cooperative agreements with any Federal agency, the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement and fire preventive assistance.

(c) Water resource developments.

The authority of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary and the Secretary of the Army and which are consistent with both the purpose of sections 460bb to 460bb–5 of this title and the purpose of existing statutes dealing with water and related resource development.

(d) Transportation system; study for ocordinated public and private system.

The Secretary, in cooperation with the State of California and affected political subdivisions thereof, local and regional transit agencies, and the Secretaries of Transportation and of the Army, shall make a study for a coordinated public and private transportation system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties. (Pub. L. 92–589, § 4, Oct. 27, 1972, 86 Stat. 1302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb, 460bb–2, 460bb–4, 460bb–5 of this title.

§ 460bb–4. Golden Gate National Recreation Area Advisory Commission.

(a) Establishment.

There is hereby established the Golden Gate National Recreation Area Advisory Commission (hereinafter referred to as the "Commission").

(b) Membership; appointment; term of office.

The Commission shall be composed of fifteen members appointed by the Secretary for terms of three years each.

(c) Vacancies.

Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers.

Members of the Commission shall serve without compensation, as such, but the Secretary may pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under sections 460bb to 460bb–5 of this title.

(e) Consultations of Secretary with members.

The Secretary, or his designee, shall from time to time, but at least annually, meet and consult with the Commission on general policies and specific matters related to planning, administration and development affecting the recreation area and other units of the national park system in Marin and San Francisco Counties.

(f) Voting.

The Commission shall act and advise by affirmative vote of a majority of the members thereof.

(g) Termination date.

The Commission shall cease to exist ten years after October 27, 1972. (Pub. L. 92–589, § 5, Oct. 27, 1972, 86 Stat. 1302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb, 460bb–2, 460bb–3, 460bb–5 of this title.

§ 460bb–5. Authorization of appropriations; limitation; adjustments.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 460bb to 460bb–5 of this title, but not more than $61,610,000 shall be appropriated for the acquisition of lands and interests in lands. There are authorized to be appropriated not more than $58,000,000 (May 1971 prices) for the development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. (Pub. L. 92–589, § 6, Oct. 27, 1972, 86 Stat. 1303.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460bb, 460bb–2, to 460bb–4 of this title.

GATEWAY NATIONAL RECREATION AREA
[NEW]

§ 460cc. Establishment of area; statement of purposes.

In order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreation Area (hereinafter referred to as the "recreation area") is hereby established.

(a) Composition and boundaries.

The recreation area shall comprise the following lands, waters, marshes, and submerged lands in the New York Harbor area generally depicted on the map entitled "Boundary Map, Gateway National Recreation Area," numbered 951–40017 sheets 1 through 3 and dated May, 1972:

(1) Jamaica Bay Unit—including all islands, marshes, hassocks, submerged lands, and waters in Jamaica Bay, Floyd Bennett Field, the lands generally located between highway route 27A and Jamaica Bay, and the area of Jamaica Bay up to the shoreline of John F. Kennedy International Airport;

(2) Breezy Point Unit—the entire area between the eastern boundary of Jacob Riis Park and the westernmost point of the peninsula;

(3) Sandy Hook Unit—the entire area between Highway 36 Bridge and the northernmost point of the peninsula;

(4) Staten Island Unit—including Great Kills Park, Miller Field (except for approximately 26 acres which are to be made available for public school purposes), Fort Wadsworth, and the waterfront lands located between the streets designated as Cedar Grove Avenue, Seaside Boulevard, and Drury Avenue and the bay from Great Kills to Fort Wadsworth;

(5) Hoffman and Swinburne Islands; and

(6) All submerged lands, islands, and waters within one-fourth of a mile of the mean low water line of any waterfront area included above.

(b) Boundary revisions: notification of Congressional committees; publication in Federal Register.

(b) The map referred to in this section shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committees on Interior and Insular Affairs of the United States House of Representatives and the United States Senate in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register. (Pub. L. 92–592, § 1, Oct. 27, 1972, 86 Stat. 1308.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460cc–1 to 460cc–4 of this title.

§ 460cc–1. Acquisition of property.

(a) Authority of Secretary; donation of State lands.

Within the boundaries of the recreation area, the Secretary may acquire lands and waters or interests therein by donation, purchase or exchange, except that lands owned by the States of New York or New Jersey or any political subdivisions thereof may be acquired only by donation.

(b) Transfer from Federal agency to administrative jurisdiction of Secretary.

With the concurrence of the agency having custody thereof, any Federal property within the boundaries of the recreation area may be transferred, without consideration, to the administrative jurisdiction of the Secretary for administration as a part of the recreation area.

(c) Breezy Point Unit; public use and access; agreement for use of lands for single-family residential community; specific provisions; Rockaway parking lot conveyance.

Within the Breezy Point Unit, (1) the Secretary shall acquire an adequate interest in the area depicted on the map referred to in section 460cc of this title to assure the public use of and access to the entire beach. The Secretary may enter into an agreement with any property owner or owners to assure the continued maintenance and use of all remaining lands in private ownership as a residential community composed of single-family dwellings. Any such agreement shall be irrevocable, unless terminated by mutual agreement, and shall specify, among other things:

(A) that the Secretary may designate, establish and maintain a buffer zone on Federal lands separating the public use area and the private community;

(B) that all construction commencing within the community, including the conversion of dwellings from seasonal to year-round residences, shall comply with standards to be established by the Secretary;

(C) that additional commercial establishments shall be permitted only with the express prior approval of the Secretary or his designee.

(2) If a valid, enforceable agreement is executed pursuant to paragraph (1) of this subsection, the authority of the Secretary to acquire any interest in the property subject to the agreement, except for the beach property, shall be suspended.

(3) The Secretary is authorized to accept by donation from the city of New York any right, title, or interest which it holds in the parking lot at Rockaway which is part of the Marine Bridge project at Riis Park. Nothing herein shall be deemed to authorize the United States to extinguish any present or future encumbrance or to authorize the State of New York or any political subdivision or agency thereof to further encumber any interest in the property so conveyed.

(d) Jamaica Bay Unit; Broad Channel Community; title acceptance conditions.

Within the Jamaica Bay Unit, (1) the Secretary may accept title to lands donated by the city of New York subject to a retained right to continue

existing uses for a specifically limited period of time if such uses conform to plans agreed to by the Secretary, and (2) the Secretary may accept title to the area known as Broad Channel Community only if, within five years after October 27, 1972, all improvements have been removed from the area and a clear title to the area is tendered to the United States. (Pub. L. 92–592, § 2, Oct. 27, 1972, 86 Stat. 1308.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460cc–2 to 460cc–4 of this title.

§ 460cc–2. Administration.

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources; Jamaica Bay Unit.

The Secretary shall administer the recreation area in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented. In the administration of the recreation area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of sections 460cc to 460cc–4 of this title: *Provided*, That the Secretary shall administer and protect the islands and waters within the Jamaica Bay Unit with the primary aim of conserving the natural resources, fish, and wildlife located therein and shall permit no development or use of this area which is incompatible with this purpose.

(b) William Fitts Ryan Visitor Center; designation.

The Secretary shall designate the principal visitor center constructed within the recreation area as the "William Fitts Ryan Visitor Center" in commemoration of the leadership and contributions which Representative William Fitts Ryan made with respect to the creation and establishment of this public recreation area.

(c) Federal-State cooperative agreements for police and fire protection.

The Secretary is authorized to enter into cooperative agreements with the States of New York and New Jersey, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(d) Water resource developments.

The authority of the Secretary of the Army to undertake or contribute to water resource developments, including shore erosion control, beach protection, and navigation improvements (including the deepening of the shipping channel from the Atlantic Ocean to the New York harbor) on land and/or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purpose of sections 460cc to 460cc–4 of this title and the purpose of existing statutes dealing with water and related land resource development.

(e) Airway facilities; maintenance, operation, and installation; Jamaica Bay and Floyd Bennett Field restrictions.

The authority of the Secretary of Transportation to maintain and operate existing airway facilities and to install necessary new facilities within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of Transportation and which are consistent with both the purpose of sections 460cc to 460cc–4 of this title and the purpose of existing statutes dealing with the establishment, maintenance, and operation of airway facilities: *Provided*, That nothing in this section shall authorize the expansion of airport runways into Jamaica Bay or air facilities at Floyd Bennett Field.

(f) Hunting, fishing, and trapping.

The Secretary shall permit hunting, fishing, shellfishing, trapping, and the taking of specimens on the lands and waters under his jurisdiction within the Gateway National Recreation Area in accordance with the applicable laws of the United States and the laws of the States of New York and New Jersey and political subdivisions thereof, except that the Secretary may designate zones where and establish periods when these activities may not be permitted, for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment.

(g) Sandy Hook and Staten Island Units; programs for preservation, restoration, interpretation, and utilization of sites and structures.

In the Sandy Hook and Staten Island Units, the Secretary shall inventory and evaluate all sites and structures having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(h) Donations for services and facilities; acceptance.

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds from individuals, foundations, or corporations for the purpose of providing services and facilities which he deems consistent with the purposes of sections 460cc to 460cc–4 of this title. (Pub. L. 92–592, § 3, Oct. 27, 1972, 86 Stat. 1309.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460cc–1, 460cc–3, 460cc–4 of this title.

§ 460cc–3. Gateway National Recreation Area Advisory Commission.

(a) Establishment; termination date.

There is hereby established a Gateway National Recreation Area Advisory Commission (hereinafter referred to as the "Commission"). Said Commission shall terminate ten years after the date of the establishment of the recreation area.

(b) Membership; appointment; terms of office; representation of interests.

The Commission shall be composed of eleven members each appointed for a term of two years by the Secretary as follows:

(1) two members to be appointed from recommendations made by the Governor of the State of New York;

(2) two members to be appointed from recommendations made by the Governor of the State of New Jersey;

(3) two members to be appointed from recommendations made by the mayor of New York City;

(4) two members to be appointed from recommendations made by the mayor of Newark, New Jersey; and

(5) three members to be appointed by the Secretary to represent the general public.

(c) Chairman; vacancies.

The Secretary shall designate one member to be Chairman. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) Compensation and expenses; vouchers.

A member of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibility under sections 460cc to 460cc–4 of this title upon vouchers signed by the Chairman.

(e) Voting.

The Commission established by this section shall act and advise by affirmative vote of a majority of the members thereof.

(f) Consultations of Secretary with members.

The Secretary or his designee shall, from time to time, consult with the members of the Commission with respect to matters relating to the development of the recreation area. (Pub. L. 92–592, § 4, Oct. 27, 1972, 86 Stat. 1310.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460cc–1, 460cc–2, 460cc–4 of this title.

§ 460cc–4. Authorization of appropriations; limitation; adjustments.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 460cc to 460cc–4 of this title, but not more than $12,125,000 for the acquisition of lands and interests in lands and not more than $92,813,000 (July, 1971 prices) for development of the recreation area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in the construction costs as indicated by engineering cost indices applicable to the type of construction involved herein. (Pub. L. 92–592, § 5, Oct. 27, 1972, 86 Stat. 1311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460cc–1 to 460cc–3 of this title.

GLEN CANYON NATIONAL RECREATION AREA [NEW]

§ 460dd. Establishment of area; statement of purposes; composition and boundaries; boundary revisions, publication in Federal Register.

In order to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto in the States of Arizona and Utah and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area, there is established the Glen Canyon National Recreation Area (hereafter referred to as the "recreation area") to comprise the area generally depicted on the drawing entitled "Boundary Map Glen Canyon National Recreation Area," numbered GLC–91,006 and dated August 1972, which is on file and available for public inspection in the office of the National Park Service, Department of the Interior. The Secretary of the Interior (hereafter referred to as the "Secretary") may revise the boundaries of the recreation area from time to time by publication in the Federal Register of a revised drawing or other boundary description, but the total acreage of the national recreation area may not exceed one million two hundred and thirty-six thousand eight hundred and eighty acres. (Pub. L. 92–593, § 1, Oct. 27, 1972, 86 Stat. 1311.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–1. Acquisition of property.

(a) Authority of Secretary; donation or exchange of State lands; concurrence of tribal council respecting trust lands.

Within the boundaries of the recreation area, the Secretary may acquire lands and interests in lands by donation, purchase, or exchange. Any lands owned by the States of Utah or Arizona, or any State, political subdivisions thereof, may be acquired only by donation or exchange. No lands held in trust for any Indian tribe may be acquired except with the concurrence of the tribal council.

(b) Navajo Indian Tribe and Tribal Council reserved mineral and land use rights unaffected.

Nothing in sections 460dd to 460dd–9 of this title shall be construed to affect the mineral rights reserved to the Navajo Indian Tribe under section 2 of the Act of September 2, 1958 (72 Stat. 1686), or the rights reserved to the Navajo Indian Tribal Council in said section 2 with respect to the use of the lands there described under the heading "PARCEL B". (Pub. L. 92–593, § 2, Oct. 27, 1972, 86 Stat. 1311.)

REFERENCES IN TEXT

Act September 2, 1958 (2 Stat. 1686), referred to in subsec. (b), provided for exchange of lands between United States and Navajo Tribe and for other purposes, and was not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–2, 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–2. Public lands; withdrawal from location, entry, and patent under Federal mining laws; removal of minerals; disposition of funds from permits and leases.

(a) The lands within the recreation area, subject to valid existing rights, are withdrawn from location, entry, and patent under the United States mining laws. Under such regulations as he deems appropriate, the Secretary shall permit the removal of the nonleasable minerals from lands or interests in lands within the national recreation area in the manner prescribed by section 387 of Title 43, and he shall permit the removal of leasable minerals from lands or interests in lands within the recreation area in accordance with the Mineral Leasing Act of February 25, 1920, as amended, or the Acquired

Lands Mineral Leasing Act of August 7, 1947, if he finds that such disposition would not have significant adverse effects on the Glen Canyon project or on the administration of the national recreation area pursuant to sections 460dd to 460dd–9 of this title.

(b) All receipts derived from permits and leases issued on lands in the recreation area under the Mineral Leasing Act of February 25, 1920, as amended, or the Act of August 7, 1947, shall be disposed of as provided in the applicable Act; and receipts from the disposition of nonleasable minerals within the recreation area shall be disposed of in the same manner as moneys received from the sale of public lands. (Pub. L. 92–593, § 3, Oct. 27, 1972, 86 Stat. 1312.)

REFERENCES IN TEXT

Mineral Leasing Act of Feb. 25, 1920, as amended, referred to in the text, is classified to chapter 3A (§ 181 et seq.) of Title 30, Mineral Lands and Mining.

Acquired Lands Mineral Leasing Act of Aug. 7, 1947, referred to in the text, is classified to chapter 7 (§ 351 et seq.) of Title 30.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1, 460dd–3, 460dd–5, 460dd–7, 460dd–9 of this title.

§ 460dd–3. Administration, protection, and development; statutory authorities for conservation and management of natural resources; Glen Canyon Dam and Reservoir.

The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and with any other statutory authority available to him for the conservation and management of natural resources to the extent he finds such authority will further the purposes of sections 460dd to 460dd–9 of this title: *Provided, however,* That nothing in sections 460dd to 460dd–9 of this title shall affect or interfere with the authority of the Secretary granted by Public Law 485, Eighty-fourth Congress, second session, to operate Glen Canyon Dam and Reservoir in accordance with the purposes of the Colorado River Storage Project Act for river regulation, irrigation, flood control, and generation of hydroelectric power. (Pub. L. 92–593, § 4, Oct. 27, 1972, 86 Stat. 1312.)

REFERENCES IN TEXT

Public Law 485, Eighty-fourth Congress, second session, referred to in the text, means Act Apr. 11, 1956, c. 203, 70 Stat. 105, the Colorado River Storage Project Act, also referred to in the text, which is classified to chapter 12B (§ 620 et seq.) of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1, 460dd–2, 460dd–5, 460dd–7, 460dd–9 of this title.

§ 460dd–4. Hunting and fishing.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States of Utah and Arizona, except that the Secretary may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, or public use and enjoyment. Except in emergencies, any regulation of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. (Pub. L. 92–593, § 5, Oct. 27, 1972, 86 Stat. 1312.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–5. Mineral and grazing leases; Bureau of Land Management administration and policies.

The administration of mineral and grazing leases within the recreation area shall be by the Bureau of Land Management. The same policies followed by the Bureau of Land Management in issuing and administering mineral and grazing leases on other lands under its jurisdiction shall be followed in regard to the lands within the boundaries of the recreation area, subject to the provisions of sections 460dd–2(a) and 460dd–3 of this title. (Pub. L. 92–593, § 6, Oct. 27, 1972, 86 Stat. 1312.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–6. Easements and rights-of-way.

The Secretary shall grant easements and rights-of-way on a nondiscriminatory basis upon, over, under, across, or along any component of the recreation area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the recreation area. (Pub. L. 92–593, § 7, Oct. 27, 1972, 86 Stat. 1312.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–7. Proposed road study.

(a) Criteria and environmental impact of specific route.

The Secretary, together with the Highway Department of the State of Utah, shall conduct a study of proposed road alinements within and adjacent to the recreation area. Such study shall locate the specific route of a scenic, low-speed road, hereby authorized, from Glen Canyon City to Bullfrog Basin, crossing the Escalante River south of the point where the river has entered Lake Powell when the lake is at the three thousand seven hundred-foot level. In determining the route for this road, special care shall be taken to minimize any adverse environmental impact and said road is not required to meet ordinary secondary road standards as to grade, alinement, and curvature. Turnouts, overlooks, and scenic vistas may be included in the road plan. In no event shall said route cross the Escalante River north of Stephens Arch.

(b) Timetable.

The study shall include a reasonable timetable for the engineering, planning, and construction of the road authorized in subsection (a) of this section and the Secretary of the Interior shall adhere to said timetable in every way feasible to him.

(c) Markers and other interpretative devices.

The Secretary is authorized to construct and maintain markers and other interpretative devices consistent with highway safety standards.

(d) Additional roads.

The study specified in subsection (a) of this section shall designate what additional roads are appropriate and necessary for full utilization of the area for the purposes of sections 460dd to 460dd–9 of this title and to connect with all roads of ingress to, and egress from the recreation area.

(e) Report to Congress.

The findings and conclusions of the Secretary and the Highway Department of the State of Utah, specified in subsection (a) of this section, shall be submitted to Congress within two years of October 27, 1972, and shall include recommendations for any further legislation necessary to implement the findings and conclusions. It shall specify the funds necessary for appropriation in order to meet the timetable fixed in subsection (b) of this section. (Pub. L. 92–593, § 8, Oct. 27, 1972, 86 Stat. 1312.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–9 of this title.

§ 460dd–8. Report to President.

Within two years from October 27, 1972, the Secretary shall report to the President, in accordance with subsections 3(c) and 3(d) of the Wilderness Act, his recommendations as to the suitability or nonsuitability of any area within the recreation area for preservation as wilderness, and any designation of any such area as wilderness shall be in accordance with said Wilderness Act. (Pub. L. 92–593, § 9, Oct. 27, 1972, 86 Stat. 1313.)

REFERENCES IN TEXT

The Wilderness Act, referred to in the text, is classified to chapter 23 (§ 1131 et seq.) of this title.

Subsections 3(c) and 3(d) of the Wilderness Act, referred to in the text, are classified to section 1132 (c) and (d) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7, 460dd–9 of this title.

§ 460dd–9. Authorization of appropriations; limitation.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 460dd to 460dd–9 of this title, not to exceed, however, $400,000 for the acquisition of lands and interests in lands and not to exceed $37,325,400 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of sections 460dd to 460dd–9 of this title. (Pub. L. 92–593, § 10, Oct. 27, 1972, 86 Stat. 1313.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460dd–1 to 460dd–3, 460dd–7 of this title.

BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA [NEW]

§ 460ee. Establishment of National Area.

(a) Secretary defined; statement of purposes; boundaries.

As used in this section the term "Secretary" shall mean the Secertary of the Army, acting through the Chief of Engineers. The Secretary, in accordance with the national recreation area concept included in the interagency report prepared pursuant to section 218 of the Flood Control Act of 1968 (Public Law 90–483) by the Corps of Engineers, the Department of the Interior, and the Department of Agriculture, as modified by this section, is authorized and directed to establish on the Big South Fork of the Cumberland River in Kentucky and Tennessee the Big South Fork National River and Recreation Area (hereafter in this section referred to as the "National Area") for the purposes of conserving and interpreting an area containing unique cultural, historic, geologic, fish and wildlife, archeologic, scenic, and recreational values, preserving as a natural, free-flowing stream the Big South Fork of the Cumberland River, major portions of its Clear Fork and New River stems, and portions of their various tributaries for the benefit and enjoyment of present and future generations, the preservation of the natural integrity of the scenic gorges and valleys, and the development of the area's potential for healthful outdoor recreation. The boundaries shall be as generally depicted on the drawing prepared by the Corps of Engineers and entitled "Big South Fork National River and Recreation Area" identified as map number BSF–NRRA(1)(A) and dated October 1972, which shall be on file and available for public inspection in the office of the District Engineer, U.S. Army Engineer District, Nashville, Tennessee.

(b) Publication in Federal Register; transfer from Secretary to administrative jurisdiction of Secretary of Interior; boundary revisions; acreage limitation.

The Secretary shall establish the National Area by publication of notice thereof in the Federal Register when he determines that the United States has acquired an acreage within the boundaries of the National Area that is efficiently administrable for the purposes of this section. After publication of notice, and after he has completed the construction of necessary access roads, day-use facilities, campground facilities, lodges, and administrative buildings, the Secretary shall transfer the jurisdiction of the National Area to the Secretary of the Interior who shall administer the National Area in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; sections 1, 2–4 of this title), as amended and supplemented. In the administration of the National Area the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of this section. The Secretary of the Interior may, after transfer to him, revise the boundaries from time to time, but the total acreage within such boundaries shall not exceed one hundred and twenty-five thousand acres. Following such transfer the authorities available to the Secretary in subsection (c) of this section shall likewise be available to the Secretary of the Interior. The Secretary may, prior to the transfer to the Secretary of the Interior, revise the boundaries from time to time, but the total acreage wihin such boundaries shall not exceed one hundred and twenty-five thousand acres.

(c) Acquisition of property; tracts; exchange and disposal of property; transfer from Federal agency to administrative jurisdiction of Secretary; residential property, right of use and occupancy; fair market value; transfer or assignment; lifetime residence of tenant or spouse; accrual of obligation or rental to United States; improved property defined; mineral rights.

(1) Within the boundaries of the National Area, the Secertary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, or exchange or otherwise, except that lands (other than roads and rights-of-way for roads) owned by the States of Kentucky and Tennessee or any political subdivisions thereof may be acquired only by donation. When an individual tract of land is only partly within the boundaries of the National Area, the Secertary may acquire all of the tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the National Area may be exchanged by the Secretary for non-Federal lands within the National Area boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377; section 471 et seq. of Title 40), as amended. Notwithstanding any other provision of law, any Federal property within the boundaries of the National Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of ths section.

(2) With the exception of property or any interest in property that the Secretary determines is necessary for purposes of administration, preservation, or public use, any owner or owners (hereafter in this section referred to as "owner") of improved property used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain the right of use and occupancy of such property for such purposes for a term, as the owner may elect, ending either (A) upon the death of the owner or his spouse, whichever occurs later, or (B) not more than twenty-five years from the date of acquisition. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the term retained by the owner. Such right: shall be subject to such terms and conditions as the Secretary deems appropriate to assure that the property is used in accordance with the purposes of this section; may be transferred or assigned; and may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof has ceased to be used for noncommercial residential purposes, and upon tender to the holder of the right an amount equal to the fair market value, as of the date the tender, of that portion of the right which remains unexpired on the date of termination. Any person residing upon improved property, subject to the right of acquisition by the Secretary as a tenant or by the sufferance of the owner or owners of the property may be allowed to continue in such residence for the lifetime of such person or his spouse, whichever occurs later, subject to the same restrictions as applicable to owners residing upon such property and provided that any obligation or rental incurred as consideration for such tenancy shall accrue during such term to the United States to be used in the administration of this section.

(3) As used in this section the term "improved property" means a detached year-round one-family dwelling which serves as the owner's permanent place of abode at the time of acquisition, and construction of which was begun before January 1, 1974, together with so much of the land on which the dwelling is situated, such land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, except that the Secretary may exclude from any improved property any waters or land fronting thereon, together with so much of the land adjoining such waters or land as he deems necessary for public access thereto.

(4) In any case where the Secretary determines that underlying minerals are removable consistent with the provisions of subsection (e)(3) of this section, the owner of the minerals underlying property acquired for the purposes of this section may retain such interest. The Secretary shall reserve the right to inspect and regulate the extraction of such minerals to insure that the values enumerated in subsection (a) of this section are not reduced and that the purposes declared in subsection (e)(1) of this section are not interfered with.

(d) Hunting, fishing, and trapping; rules and regulations after consultations with State agencies.

The Secretary, and the Secretary of the Interior after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the boundaries of the National Area in accordance with applicable Federal and State laws, except that he may designate zones where, and establish periods when, no hunting, fishing, or trapping shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary or the Secretary of the Interior pursuant to this subsection shall be put into effect only after consultation with the appropriate State agency responsible for hunting, fishing, and trapping activities.

(e) Gorge areas division: restrictions, access routes, maintenance of roads for nonvehicular traffic, ingress and egress of residents, protection of values; adjacent areas division: restrictions; boundaries; Rugby area: Federal consultations with involved agencies respecting development and management of adjacent National Area; Blue Heron Mine community, restoration; rail and alternative transportation study: report to Congress.

(1) The National Area shall be established and managed for the purposes of preserving and interpreting the scenic, biological, archeological, and historical resources of the river gorge areas and developing the natural recreational potential of the area for the enjoyment of the public and for the benefit of the economy of the region. The area within the boundary of the National Area shall be divided into

two categories; namely, the gorge areas and adjacent areas as hereinafter defined.

(2)(A) Within the gorge area, no extraction of, or prospecting for minerals, petroleum products, or gas shall be permitted. No timber shall be cut within the gorge area except for limited clearing necessary for establishment of day-use facilities, historical sites, primitive campgrounds, and access roads. No structures shall be constructed within the gorge except for reconstruction and improvement of the historical sites specified in paragraphs (5) and (6) of this subsection and except for necessary day-use facilities along the primary and secondary access routes specified herein and within five hundred feet of such roads, and except for primitive campgrounds accessible only by water or on foot. No motorized transportation shall be allowed in the gorge area except on designated access routes.

(B) Primary access routes into the gorge area may be constructed or improved upon the general route of the following designated roads: Tennessee Highway Numbered 52, FAS 2451 (Leatherwood Ford Road), the road into the Blue Heron Community, and Kentucky Highway Numbered 92.

(C) Secondary access roads in the gorge area may be constructed or improved upon the following routes: the roads from Smith Town, Kentucky, to Worley, Kentucky, the road crossing the Clear Fork at Burnt Mill Bridge, the road from Goad, Tennessee, to Zenith, Tennessee, the road from Co-Operative, Kentucky, to Kentucky Highway Numbered 92, the road entering the gorge across from the mouth of Alum Creek in Kentucky, the road crossing the Clear Fork at Peters Bridge.

(D) All other existing roads in the gorge area shall be maintained for nonvehicular traffic only, except that nothing in this section shall abrogate the right of ingress and egress of those who remain in occupancy under subsection (c)(1) of this section.

(E) Road improvement or maintenance and any construction of roads or facilities in the gorge area as permitted by this section shall be accomplished by the Secretary in a manner that will protect the declared values of this unique natural scenic resource.

(3) In adjacent areas: the removal of timber shall be permitted only where required for the development or maintenance of public use and for administrative sites and shall be accomplished with careful regard for scenic and environmental values; prospecting for minerals and the extraction of minerals from the adjacent areas shall be permitted only where the adit to any such mine can be located outside the boundary of the National Area; no surface mining or strip mining shall be permitted; prospecting and drilling for petroleum products and natural gas shall be permitted in the adjacent area under such regulations as the Secretary or the Secretary of the Interior, after jurisdiction over the national river and recreation area has been transferred to him under subsection (b) of this section, may prescribe to minimize detrimental environment impact, such regulations shall provide among other things for an area limitation for each such operation, zones where operations will not be permitted, and safeguards to prevent air and water pollution; no storage facilities for petroleum products or natural gas shall be located within the boundary of the National Area except as necessary and incidental to production; the Secretary is authorized to construct two lodges with recreational facilities within the adjacent areas so as to maximize and enhance public use and enjoyment of the National Area; construction of all roads and facilities in the adjacent areas shall be undertaken with careful regard for the maintenance of the scenic and esthetic values of the gorge area and the adjacent areas.

(4) The gorge area as set out in paragraphs (1) and (2) of this subsection shall consist of all lands and waters of the Big South Fork, Clear Fork, and New York River which lie between the gorge or valley rim on either side (where the rim is not clearly defined by topography, the gorge boundary shall be established at an elevation no lower than that of the nearest clearly demarked rim on the same side of the valley), and those portions of the main tributaries and streams in the watersheds of the Big South Fork, Clear Fork, and New River that lie within a gorge or valley rim on either side, except that no lands or waters north of Kentucky Highway Numbered 92 shall be included. The designated adjacent areas shall consist of the balance of the National Area.

(5) The Secretary, and the Secretary of the Interior, shall consult and cooperate with the Tennessee Historical Commission and the Rugby Restoration Association and with other involved agencies and associations, both public and private concerning the development and management of the National Area in the area adjacent to Rugby, Tennessee. Development within the area adjacent to Rugby, Tennessee, shall be designed toward preserving and enhancing the historical integrity of the community and any historical sites within the boundary of the National Area.

(6) The Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, shall provide for the restoration of the Blue Heron Mine community in a manner which will preserve and enhance the historical integrity of the community and will contribute to the public's understanding and enjoyment of its historical value. To that end the Secretary, or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, may construct and improve structures within and may construct and improve a road into this community.

(7) The Secretary shall study the desirability and feasibility of reestablishing rail transportation on the abandoned O&W railbed or an alternative mode of transportation within the National Area upon the O&W roadbed, and shall report to Congress his recommendation with regard to development of this facility.

(f) Federal power and water resources projects; license and other restrictions; limitations inapplicable to external areas.

The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other pro-

ject works under the Federal Power Act (41 Stat. 1063) as amended (section 791a et seq. of this title), within or directly affecting the National Area and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which the National Area was established. Nothing contained in the preceding sentence shall preclude licensing of, or assistance to, developments below or above the National Area or on any stream tributary thereto which will not invade the National Area or unreasonably diminish the scenic, recreation, and fish and wildlife values present in the area on March 7, 1974. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which the National Area was established, or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, in writing of its intention so to do at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendations or request in what respect construction of such project would be in conflict with the purposes of this section and would affect the National Area and the values to be protected under this section.

(g) Transportation facilities; study and establishment.

The Secretary shall study transportation facilities in the region served by the National Area and shall establish transportation facilities to enhance public access to the National Area. In this connection the Secretary is authorized to acquire and maintain public roads, other than State highways, necessary to serve the public use facilities within the National Area, and to establish and maintain, at Federal cost an interior and circulating road system sufficient to meet the purposes of this section. Any existing public road, which at the time of its acquisition continues to be a necessary and essential part of the county highway system, may, upon mutual agreement between the Secretary and the owner of such road, be relocated outside of the National Area and if not so relocated such road shall be maintained at Federal expense and kept open at all times for general travel purposes. Nothing in this subsection shall abrogate the right of egress and ingress of those persons who may remain in occupancy under subsection (c) of this section. Nothing in this subsection shall preclude the adjustment, relocation, reconstruction, or abandonment of State highways situated in the National Area, with the concurrence of the agency having the custody of such highways upon entering into such arrangements as the Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this section, deems appropriate and in the best interest of the general welfare.

(h) New River plan and programs; transmittal to Congress.

In furtherance of the purpose of this subsection the Secretary in cooperation with the Secretary of Agriculture, the heads of other Federal departments and agencies involved, and the State of Tennessee and its political subdivisions, shall formulate a comprehensive plan for that portion of the New River that lies upstream from United States Highway Numbered 27. Such plan shall include, among other things, programs to enhance the environment and conserve and develop natural resources, and to minimize siltation and acid mine drainage. Such plan, with recommendations, including those as to costs and administrative responsibilities, shall be completed and transmitted to the Congress within one year from March 7, 1974.

(i) Water quality protection; interagency cooperation.

The Secretary or the Secretary of the Interior, after jurisdiction over the National Area has been transferred to him under subsection (b) of this subsection, shall consult and cooperate with other departn ents and agencies of the United States and the States of Tennessee and Kentucky in the development of measures and programs to protect and enhance water quality within the National Area and to insure that such programs for the protection and enhancement of water quality do not diminish other values that are to be protected under this section.

(j) Real and personal property tax losses; reimbursement; authorization of appropriations.

(1) Until such time as the transfer of jurisdiction to the Secretary of the Interior authorized by subsection (b) of this section shall take place, for the purpose of financially assisting the States of Tennessee and Kentucky, McCreary County, Kentucky, and Scott, Morgan, Pickett, and Fentress Counties in Tennessee, because of losses which these jurisdictions will sustain by reason of the fact that certain lands and other property within their boundaries may be included within the National Area established by this section and thereafter will no longer be subject to real and personal property taxes levied or imposed by them, payments shall be made to them on an annual basis in an amount equal to those taxes levied or imposed on such property for the last taxable year immediately preceding March 7, 1974.

(2) For the purpose of enabling the Secretary to make such payments during the fiscal years ending June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979, there are authorized to be appropriated such sums as may be necessary.

(k) Authorization of appropriations; prohibition of appropriation from Land and Water Conservation Fund.

There are authorized to be appropriated $32,850,000 to carry out the provisions of this section, other than subsection (j) of this section. No moneys shall be appropriated from the Land and Water Conservation Fund to carry out the purposes of this section. (Pub. L. 93–251, title I, § 108, Mar. 7, 1974, 88 Stat. 43.)

REFERENCES IN TEXT

Section 218 of the Flood Control Act of 1968 (Public Law 93–483) was not classified to the Code.

CUYAHOGA VALLEY NATIONAL RECREATION AREA [NEW]

§ 460ff. Establishment; statement of purposes; utilization of resources.

For the purpose of preserving and protecting for public use and enjoyment, the historic, scenic, natural, and recreational values of the Cuyahoga River and the adjacent lands of the Cuyahoga Valley and for the purpose of providing for the maintenance of needed recreational open space necessary to the urban environment, the Cuyahoga Valley National Recreation Area, hereafter referred to as the "recreation area", shall be established within six months after December 27, 1974. In the management of the recreation area, the Secretary of the Interior (hereafter referred to as the "Secretary") shall utilize the recreation area resources in a manner which will preserve its scenic, natural, and historic setting while providing for the recreational and educational needs of the visiting public. (Pub. L. 93–555, § 1, Dec. 27, 1974, 88 Stat. 1784.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–1 to 460ff–5 of this title.

§ 460ff–1. Acquisition of land.

(a) Composition and boundaries; boundary revisions.

The recreational area shall comprise the lands and waters generally depicted on the map entitled "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio", numbered NRA–CUYA–20,000–A, and dated December 1974, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the main public library of Akron, Ohio, and Cleveland, Ohio. After advising the Committees on Interior and Insular Affairs of the United States Congress, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Manner of acquisition; donation of State lands; private lands essential to area; transfer of Federal property to Secretary.

Within the boundaries of the recreation area, the Secretary, after consultation with the Governor of the State of Ohio and the Advisory Commission established in section 460ff–4 of this title, may acquire lands, improvements, waters, or interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer. Any lands or interests owned therein, as well as any lands hereafter acquired, by the State of Ohio or any political subdivision thereof (including any park district or other public entity) may be acquired only by donation. The Secretary shall not acquire privately owned lands which are held and used for public recreation uses unless he determines that such lands are essential to carry out the purposes of sections 460ff to 460ff–5 of this title. Notwithstanding any other provisions of law, any Federal property located within the boundaries of the recreation area may, with the concurrence of the agency having custody thereof, be transferred without transfer of funds to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

(c) Scenic easements or other interests in improved property; prerequisites to acquisition of fee title.

With respect to improved properties, as defined in sections 460ff to 460ff–5 of this title, the Secretary may acquire scenic easements or such other interests as, in his judgment, are necessary for the purposes of the recreation area. Fee title to such improved properties shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless such acquisition is necessary to fulfill the purposes of sections 460ff to 460ff–5 of this title.

(d) Acquired lands partly outside boundaries; exchange for non-Federal lands within boundaries; report to General Services Administration for disposal.

When any tract of land is only partly within the boundaries of the recreation area, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs. Land so acquired outside of the boundaries may be exchanged by the Secretary for non-Federal lands within the boundaries. Any portion of the land acquired outside the boundaries and not utilized for exchange shall be reported to the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949, as amended: *Provided* That, no disposal shall be for less than the fair market value of the lands involved.

(e) Improved property defined; determination by Secretary.

For the purposes of sections 460ff to 460ff–5 of this title, the term "improved property" means: (i) a detached single family dwelling, the construction of which was begun before January 1, 1975 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1975. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1975, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(f) Retention by owner of right of use and occupancy for noncommercial residential or agricultural purposes; term; payment of fair market value; termination by Secretary for use inconsistent with statutory purpose.

The owner of an improved property, as defined in sections 460ff to 460ff–5 of this title, on the date of its acquisition, as a condition of such acquisition,

may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agricultural purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 460ff to 460ff–5 of this title, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(g) Offers to sell by owners claiming undue hardship.

In exercising his authority to acquire property under sections 460ff to 460ff–5 of this title, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. (Pub. L. 93–555, § 2, Dec. 27, 1974, 88 Stat. 1784.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377. Titles I–IV and VI–VIII thereof are classified to chapters 10 and 16 of Title 40, Public Buildings, Property, and Works, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed in the revision of Title 44 by Pub. L. 90–620, § 3, Oct. 22, 1968, 82 Stat. 1309. The subject matter of such former Title V is now covered by chapters 21, 25, 27, 29, and 31 of Title 44.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–2 to 460ff–5 of this title.

§ 460ff–2. Land acquisition plan; submission to Congressional committees; time; contents; Congressional expression of intent for time of completion of land acquisition program.

(a) Within one year after December 27, 1974, the Secretary shall submit, in writing, to the Committees on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this recreation area,

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(b) It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 460ff to 460ff–5 of this title within six years after December 27, 1974. (Pub. L. 93–555, § 3, Dec. 27, 1974, 88 Stat. 1786.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–1, 460ff–3 to 460ff–5 of this title.

§ 460ff–3. Administration.

(a) Provisions applicable; utilization of authorities for conservation and management of wildlife and natural resources.

The Secretary shall administer the recreation area in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented. In the administration of the recreation area, the Secretary may utilize such statutory authority available to him for the conservation and management of wildlife and natural resources as he deems appropriate to carry out the purposes of sections 460ff to 460ff–5 of this title.

(b) Federal-State cooperative agreements for police and fire protection.

The Secretary may enter into cooperative agreements with the State of Ohio, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(c) Water resource developments.

The authority of the Secretary of the Army to undertake or contribute to water resource development, including erosion control and flood control, on land or waters within the recreation area shall be exercised in accordance with plans which are mutually acceptable to the Secretary of the Interior and the Secretary of the Army and which are consistent with both the purposes of sections 460ff to 460ff–5 of the title and the purposes of existing statutes dealing with water and related land resource development.

(d) Inventory and evaluation of historical, cultural and architectural sites and structures; programs for preservation, restoration, interpretation and utilization.

The Secretary, in consultation with the Governor of the State of Ohio, shall inventory and evaluate all sites and structures within the recreation area having present and potential historical, cultural, or architectural significance and shall provide for appropriate programs for the preservation, restoration, interpretation, and utilization of them.

(e) Donations for services and facilities.

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purposes of providing services and facilities which he deems consistent with the purposes of sections 460ff to 460ff–5 of this title.

(f) Zoning laws and ordinances; consultation and assistance with local government in establishment; objectives.

The Secretary may, on his own initiative, or at the request of any local government having jurisdiction over land located within or adjacent to the

recreation area, assist and consult with the appropriate officers and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of sections 460ff to 460ff–5 of this title. In providing assistance pursuant to this subsection, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of prohibiting the commercial and industrial use (other than a use for commercial farms and orchards) of all real property adjacent to the recreation area;

(2) aid in preserving the character of the recreation area by appropriate restrictions on the use of real property in the vicinity including, but not limited to, restrictions upon: building and construction of all types; signs and billboards; the burning of cover; cutting of timber (except tracts managed for sustained yield); removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the aesthetic character of the recreation area; and

(3) have the effect of providing that the Secretary shall receive notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

(Pub. L. 93–555, § 4, Dec. 27, 1974, 88 Stat. 1787.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–1, 460ff–2, 460ff–4, 460ff–5 of this title.

§ 460ff–4. Cuyahoga Valley National Recreation Area Advisory Commission.

(a) Establishment; membership; appointment; term; chairman; vacancies.

There is hereby established the Cuyahoga Valley National Recreation Area Advisory Commission (hereafter referred to as the "Commission") which shall be composed of thirteen members to be appointed by the Secretary for terms of five years as follows:

(1) two members to be appointed from recommendations submitted by the Board of Park Commissioners of the Akron Metropolitan Park District;

(2) two members to be appointed from recommendations submitted by the Board of Park Commissioners of the Cleveland Metropolitan Park District;

(3) two members to be appointed from recommendations submitted by the Governor of the State;

(4) one from the membership of an Ohio conservation organization;

(5) one from the membership of an Ohio historical society; and

(6) five members representing the general public, of which no fewer than three shall be from among the permanent residents and electors of Summit and Cuyahoga Counties.

The Secretary shall designate one member of the Commission as Chairman and any vacancy shall be filled in the same manner in which the original appointment was made.

(b) Compensation and expenses; vouchers.

Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and reimburse members for reasonable expenses incurred in carrying out their responsibilities under sections 460ff to 460ff–5 of this title on vouchers signed by the Chairman.

(c) Consultations by Secretary.

The Secretary, or his designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of the recreation area and with respect to carrying out the provisions of sections 460ff to 460ff–5 of this title.

(d) Termination date.

Unless extended by the Congress, the Commission shall terminate ten years after the date of the establishment of the recreation area. (Pub. L. 93–555, § 5, Dec. 27, 1974, 88 Stat. 1788.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–1 to 460ff–3, 460ff–5 of this title.

§ 460ff–5. Authorization of appropriations; limitations; final development master plan; consultations with State; transmission to Congressional committees; contents.

(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of sections 460ff to 460ff–5 of this title, but not more than $34,500,000 for the acquisition of lands and interests in lands.

(b) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from the date of establishment of the recreation area pursuant to sections 460ff to 460ff–5 of this title, the Secretary shall, after consulting with the Governor of the State of Ohio, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the recreation area consistent with the objectives of sections 460ff to 460ff–5 of this title, indicating:

(1) the facilities needed to accommodate the health, safety, and recreation needs of the visiting public;

(2) the location and estimated cost of all facilities; and

(3) the projected need for any additional facilities within the area.

(Pub. L. 93–555, § 6, Dec. 27, 1974, 88 Stat. 1788.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460ff–1 to 460ff–4 of this title.

HELLS CANYON NATIONAL RECREATION AREA

[NEW]

§ 460gg. Establishment; statement of purposes; composition; publication of boundary description in Federal Register.

(a) To assure that the natural beauty, and historical and archeological values of the Hells Canyon area and the seventy-one-mile segment of the Snake River between Hells Canyon Dam and the Oregon-

Washington border, together with portions of certain of its tributaries and adjacent lands, are preserved for this and future generations, and that the recreational and ecologic values and public enjoyment of the area are thereby enhanced, there is hereby established the Hells Canyon National Recreation Area.

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness (hereinafter referred to as the "wilderness"), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in section 460gg–5(d) of this title, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated September 1975, which shall be on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable, but no later than eighteen months after December 31, 1975, publish a detailed boundary description of the recreation area, the wilderness study areas designated in section 460gg–5(d) of this title, and the wilderness established in section 460gg–1 of this title in the Federal Register. (Pub. L. 94–199, § 1, Dec. 31, 1975, 89 Stat. 1117.)

REFERENCES IN TEXT

Section 3 of this Act, referred to in subsec. (b), is section 3 of Pub. L. 94–199. Subsec. (a) of such section 3 added pars. (11) and (12) of section 1274(a) of this title, relating to components of the national wild and scenic rivers system. Subsec. (b) of such section 3, relating to the administration of those segments of the Snake and Rapid Rivers designated as wild or scenic river areas, is set out as a note under section 1274 of this title.

SEPARABILITY OF PROVISIONS

Section 17 of Pub. L. 94–199 provided that: "If any provision of this Act [sections 460gg to 460gg–13 of this title] is declared to be invalid, such declaration shall not affect the validity of any other provision hereof."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–1. Wilderness designation; application of Wilderness Act.

(a) The lands depicted as the "Hells Canyon Wilderness" on the map referred to in section 460gg (b) of this title are hereby designated as wilderness.

(b) The wilderness designated by sections 460gg to 460gg–13 of this title shall be administered by the Secretary in accordance with the provisions of sections 460gg to 460gg–13 of this title or in accordance with the provisions of the Wilderness Act, whichever is the more restrictive, except that any reference in such provisions of the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of sections 460gg to 460gg–13 of this title. The provisions of section 460gg–6(b) and section 460gg–8 of this title shall apply to the wilderness. The Secretary shall make such boundary revisions to the wilderness as may be necessary due to the exercise of his authority under subsection 3 (b) of this Act. (Pub. L. 94–199, § 2, Dec. 31, 1975, 89 Stat. 1117.)

REFERENCES IN TEXT

The Wilderness Act, referred to in subsec. (b), is classified to section 1131 et seq. of this title.

The effective date of sections 460gg to 460gg–13 of this title, referred to in subsec. (b) means Dec. 31, 1975, the date of enactment of Pub. L. 94–199.

Subsection 3(b) of this Act, referred to in subsec. (b), is subsec. 3(b) of Pub. L. 94–199, which is set out as a note under section 1274 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg, 460gg–3 to 460gg–7, 460g–11, 460gg–12 of this title.

§ 460gg–2. Federal power and water resources projects; license and other restrictions.

(a) Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, the Federal Power Commission may not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project work under the Federal Power Act, as amended, within the recreation area: *Provided*, That the provisions of the Federal Power Act shall continue to apply to any project (as defined in such Act), and all of the facilities and improvements required or used in connection with the operation and maintenance of said project, in existence within the recreation area which project is already constructed or under construction on December 31, 1975.

(b) No department or agency of the United States may assist by loan, grant, license, or otherwise the construction of any water resource facility within the recreation area which the Secretary determines would have a direct and adverse effect on the values for which the waters of the area are protected. (Pub. L. 94–199, § 4, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

The Federal Power Act, as amended, referred to in subsec. (a), is classified generally to section 791a et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–3. Present and future use of Snake River; flow requirements.

(a) No provision of the Wild and Scenic Rivers Act, nor of sections 460gg to 460gg–13 of this title, nor any guidelines, rules, or regulations issued hereunder, shall in any way limit, restrict, or conflict with present and future use of the waters of the Snake River and its tributaries upstream from the boundaries of the Hells Canyon National Recreation Area created hereby, for beneficial uses, whether consumptive or nonconsumptive, now or hereafter existing, including, but not limited to, domestic, municipal, stockwater, irrigation, mining, power, or industrial uses.

(b) No flow requirements of any kind may be imposed on the waters of the Snake River below Hells Canyon Dam under the provisions of the Wild and Scenic Rivers Act, of sections 460gg to 460gg–13 of this title, or any guidelines, rules, or regulations adopted pursuant thereto. (Pub. L. 94–199, § 6, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

The Wild and Scenic Rivers Act, referred to in subsecs. (a) and (b), is classified to section 1271 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–4 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–4. Administration, protection, and development of area.

Except as otherwise provided in sections 2 and 3 of this Act, and subject to the provisions of section 460gg–7 of this title, the Secretary shall administer the recreation area in accordance with the laws, rules, and regulations applicable to the national forests for public outdoor recreation in a manner compatible with the following objectives:

(1) the maintenance and protection of the free-flowing nature of the rivers within the recreation area;

(2) conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit;

(3) preservation, especially in the area generally known as Hells Canyon, of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith;

(4) protection and maintenance of fish and wildlife habitat;

(5) protection of archeological and paleontologic sites and interpretation of these sites for the public benefit and knowledge insofar as it is compatible with protection;

(6) preservation and restoration of historic sites associated with and typifying the economic and social history of the region and the American West; and

(7) such management, utilization, and disposal of natural resources on federally owned lands, including, but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of sections 460gg to 460gg–13 of this title.

(Pub. L. 94–199, § 7, Dec. 31, 1975, 89 Stat. 1118.)

REFERENCES IN TEXT

Sections 2 and 3 of this Act, referred to in text, are sections 2 and 3 of Pub. L. 94–199. Section 2 of Pub. L. 94–199 is set out as section 460gg–1 of this title, section 3(a) of Pub. L. 94–199 added pars. (11) and (12) of section 1274(a) of this title, relating to components of the national wild and scenic rivers system, and section 3(b) of Pub. L. 94–199, relating to the administration of those segments of the Snake and Rapid Rivers designated as wild or scenic river areas, is set out as a note under section 1274 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3, 460gg–5 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–5. Management plan for recreation area.

(a) Development and submission.

Within five years from December 31, 1975, the Secretary shall develop and submit to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives a comprehensive management plan for the recreation area which shall provide for a broad range of land uses and recreation opportunities.

(b) Consideration of historic, archeological and paleontological resources; inventory; recommendation of areas for listing in National Register of Historic Places; recommendation for protection and research of resources.

In the development of such plan, the Secretary shall consider the historic, archeological, and paleontological resources within the recreation area which offer significant opportunities for anthropological research. The Secretary shall inventory such resources and may recommend such areas as he deems suitable for listing in the National Register of Historic Places. The Secretary's comprehensive plan shall include recommendations for future protection and controlled research use of all such resources.

(c) Scenic roads and other means of transit.

The Secretary shall, as a part of his comprehensive planning process, conduct a detailed study of the need for, and alternative routes of, scenic roads and other means of transit to and within the recreation area. In conducting such study the Secretary shall consider the alternative for upgrading existing roads and shall, in particular, study the need for and alternative routes of roads or other means of transit providing access to scenic views of and from the Western rim of Hells Canyon.

(d) Wilderness areas; review by Secretary; recommendations of President to Congress; notice of hearings and meetings.

The Secretary shall review, as to their suitability or nonsuitability for preservation as wilderness, the areas generally depicted on the map referred to in section 460gg of this title as the "Lord Flat-Somers Point Plateau Wilderness Study Area", and the "West Side Reservoir Face Wilderness Study Area", and the "Mountain Sheep Wilderness Study Area" and report his findings to the President. The Secretary shall complete his review and the President shall, within five years from December 31, 1975, advise the United States Senate and House of Representatives of his recommendations with respect to the designation of lands within such area as wilderness. In conducting his review the Secretary shall comply with the provisions of section 1132(d) of this title and shall give public notice at least sixty days in advance of any hearing or other public meeting concerning the wilderness study area. The Secretary shall administer all Federal lands within the study areas so as not to preclude their possible future designation by the Congress as wilderness. Nothing contained herein shall limit the President in proposing, as part of this recommendation to Congress, the designation as wilderness of any additional area within the recreation area which is predominately of wilderness value.

(e) Public participation in reviews and preparation of plan; cooperation of other Federal agencies.

In conducting the reviews and preparing the comprehensive management plan required by this section, the Secretary shall provide for full public participation and shall consider the views of all interested agencies, organizations, and individuals including but not limited to, the Nez Perce Tribe of Indians, and the States of Idaho, Oregon, and Washington. The Secretaries or Directors of all Federal departments, agencies, and commissions having

a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his review and to make such studies as the Secretary may request on a cost reimbursable basis.

(f) Continuation of ongoing activities.

Such activities as are as compatible with the provisions of sections 460gg to 460gg–13 of this title, but not limited to, timber harvesting by selective cutting, mining, and grazing may continue during development of the comprehensive management plan, at current levels of activity and in areas of such activity on December 31, 1975. Further, in development of the management plan, the Secretary shall give full consideration to continuation of these ongoing activities in their respective areas. (Pub. L. 94–199, § 8, Dec. 31, 1975, 89 Stat. 1119.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg, 460gg–1, 460gg–3, 460gg–4, 460gg–6, 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–6. Acquisition of property.

(a) Authority of Secretary; manner of acquisition.

The Secretary is authorized to acquire such lands or interests in land (including, but not limited to, scenic easements) as he deems necessary to accomplish the purposes of section 460gg to 460gg–13 of this title by purchase with donated or appropriated funds with the consent of the owner, donation, or exchange.

(b) Acquisition without consent of owners; limitations; scenic easements.

The Secretary is further authorized to acquire by purchase with donated or appropriated funds such lands or interests in lands without the consent of the owner only if (1) he deems that all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and (2) the total acreage of all other lands within the recreation area to which he has acquired fee simple title or, lesser interests therein without the consent of the owner is less than 5 per centum of the total acreage which is privately owned within the recreation area on December 31, 1975: *Provided,* That the Secretary may acquire scenic easements in lands without the consent of the owner and without restriction to such 5 per centum limitation: *Provided further,* That the Secretary may only acquire scenic easements in lands without the consent of the owner after the date of publication of the regulations required by section 460gg–7 of this title when he determines that such lands are being used, or are in imminent danger of being used, in a manner incompatible with such regulations.

(c) Donation of Oregon land; donation or exchange of Idaho land.

Any land or interest in land owned by the State of Oregon or any of its political subdivisions may be acquired only by donation. Any land or interest in land owned by the State of Idaho or any of its political subdivisions may be acquired only by donation or exchange.

(d) Definition of "scenic easement."

As used in sections 460gg to 460gg–13 of this title the term "scenic easement" means the right to control the use of land in order to protect esthetic values for the purposes of sections 460gg to 460gg–13 of this title, but shall not preclude the continuation of any farming or pastoral use exercised by the owner as of December 31, 1975.

(e) Offers to sell land; hardship from delay.

The Secretary shall give prompt and careful consideration to any offer made by a person owning land within the recreation area to sell such land to the United States. The Secretary shall specifically consider any hardship to such person which might result from an undue delay in acquiring his property.

(f) Exchange of land; equalization payments.

In exercising his authority to acquire property by exchange, the Secretary may accept title to any non-Federal property, or interests therein, located within the recreation area and, notwithstanding any other provision of law, he may convey in exchange therefor any federally owned property within the same State which he classifies as suitable for exchange and which is under his administrative jurisdiction: *Provided,* That the values of the properties so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the United States as the circumstances require. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in connection with exchanges of national forest lands.

(g) Acquisition of mineral interests.

Notwithstanding any other provision of law, the Secretary is authorized to acquire mineral interests in lands within the recreation area, with or without the consent of the owner. Upon acquisition of any such interest, the lands and/or minerals covered by such interest are by sections 460gg to 460gg–13 of this title withdrawn from entry or appropriation under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto.

(h) Transfer of Federal property to Secretary.

Notwithstanding any other provision of law, any Federal property located within the recreation area may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for use by him in carrying out the purposes of sections 460gg to 460gg–13 of this title. Lands acquired by the Secretary or transferred to his administrative jurisdiction within the recreation area shall become parts of the national forest within or adjacent to which they are located. (Pub. L. 94–199, § 9, Dec. 31, 1975, 89 Stat. 1120.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460gg–1, 460gg–3 to 460gg–5, 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–7. Rules and regulations.

The Secretary shall promulgate, and may amend, such rules and regulations as he deems necessary to accomplish the purposes of sections 460gg to 460gg–13 of this title. Such rules and regulations shall include, but are not limited to—

(a) standards for the use and development of privately owned property within the recreation area, which rules or regulations the Secretary may, to the extent he deems advisable, implement with

the authorities delegated to him in section 460gg–6 of this title, and which may differ among the various parcels of land within the recreation area;

(b) standards and guidelines to insure the full protection and preservation of the historic, archeological, and paleontological resources in the recreation area;

(c) provision for the control of the use of motorized and mechanical equipment for transportation over, or alteration of, the surface of any Federal land within the recreation area;

(d) provision for the control of the use and number of motorized and nonmotorized river craft: *Provided*, That the use of such craft is hereby recognized as a valid use of the Snake River within the recreation area; and

(e) standards for such management, utilization, and disposal of natural resources on federally owned lands, including but not limited to, timber harvesting by selective cutting, mining, and grazing and the continuation of such existing uses and developments as are compatible with the provisions of sections 460gg to 460gg–13 of this title.

(Pub. L. 94–199, § 10, Dec. 31, 1975, 89 Stat. 1121.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–6, 460gg–11, 460gg–12 of this title.

§ 460gg–8. Lands withdrawn from location, entry, and patent under United States mining laws.

Notwithstanding the provisions of section 1133(d)(2) of this title and subject to valid existing rights, all Federal lands located in the recreation area are hereby withdrawn from all forms of location, entry, and patent under the mining laws of the United States, and from disposition under all laws pertaining to mineral leasing and all amendments thereto. (Pub. L. 94–199, § 11, Dec. 31, 1975, 89 Stat. 1122.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to Title 30, Mineral Lands and Mining.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–9. Hunting and fishing.

The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the recreation area in accordance with applicable laws of the United States and the States wherein the lands and waters are located except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons for public safety, administration, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. (Pub. L. 94–199, § 12, Dec. 31, 1975, 89 Stat. 1122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–10. Ranching, grazing, etc., as valid uses of area.

Ranching, grazing, farming, timber harvesting, and the occupation of homes and lands associated therewith, as they exist on December 31, 1975, are recognized as traditional and valid uses of the recreation area. (Pub. L. 94–199, § 13, Dec. 31, 1975, 89 Stat. 1122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–12 of this title.

§ 460gg–11. Civil and criminal jurisdiction of Idaho and Oregon.

Nothing in sections 460gg to 460gg–13 of this title shall diminish, enlarge, or modify any right of the States of Idaho, Oregon, or any political subdivisions thereof, to exercise civil and criminal jurisdiction within the recreation area or of rights to tax persons, corporations, franchises, or property, including mineral or other interests, in or on lands or waters within the recreation area. (Pub. L. 94–199, § 14, Dec. 31, 1975, 89 Stat. 1122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–12 of this title.

§ 460gg–12. Development and operation of facilities and services; cooperation with Federal, State, etc., agencies.

The Secretary may cooperate with other Federal agencies, with State and local public agencies, and with private individuals and agencies in the development and operation of facilities and services in the area in furtherance of the purposes of sections 460gg to 460gg–13 of this title, including, but not limited to, restoration and maintenance of the historic setting and background of towns and settlements within the recreation area. (Pub. L. 94–199, § 15, Dec. 31, 1975, 89 Stat. 1122.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11 of this title.

§ 460gg–13. Authorization of appropriations.

(a) Acquisition of lands.

There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the acquisition of lands and interests in lands within the recreation area.

(b) Development of recreation facilities.

There is hereby authorized to be appropriated the sum of not more than $10,000,000 for the development of recreation facilities within the recreation area.

(c) Inventory, identification, development and protection of historic and archeological sites.

There is hereby authorized to be appropriated the sum of not more than $1,500,000 for the inventory, identification, development, and protection of the historic and archeological sites described in section 5 of this Act. (Pub. L. 94–199, § 16, Dec. 31, 1975, 89 Stat. 1122.)

REFERENCES IN TEXT

Section 5 of this Act, referred to in subsec. (c), is section 5 of Pub. L. 94–199. Subsec. (a) of such section 5 added par. (57) to section 1276(a) of this title, relating to the

designation of the Snake River for potential addition to the national wildlife and scenic rivers system. Subsec. (b) of such section 5, relating to the deauthorization of the Asotin Dam, was not classified to this Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–1, 460gg–3 to 460gg–7, 460gg–11, 460gg–13 of this title.

Chapter 1A.—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

Sec.

467a. Mar-A-Lago National Historic Site [New].
- (a) Acceptance and administration upon vesting of Federal possessory rights.
- (b) Temporary residence for visiting foreign dignitaries or heads of state or members of Federal executive office; agreements and actions for such administration and use; administrative determination of additional uses.

467a–1. Same; Mar-A-Lago National Historic Site Advisory Commission [New].
- (a) Establishment.
- (b) Membership; term of office; representation of interests; Chairman.
- (c) Vacancies.
- (d) Compensation and expenses.
- (e) Consultations of Secretary with Commission on general policies and specific matters related to administration of site.
- (f) Voting.

469a–1. Same; threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects; notice to Secretary of the Interior; survey; recovery, preservation, and protection of data [New].

469a–2. Same; survey by Secretary of the Interior; recovery and preservation of data; compensation for delays in construction and for temporary loss of use of land [New].

469a–3. Same; progress reports by Secretary of the Interior on surveys and work undertaken as a result of surveys; disposition of relics and specimens recovered; coordination of survey and recovery activities; annual report [New].

§ 461. Declaration of national policy.

NATIONAL HISTORIC SITES

Historic site	*Date designated*
* * * * *	
Clara Barton National Historic Site, Maryland	Oct. 26, 1974
* * * * *	
Grants-Kohrs Ranch National Historic Site, Montana	Aug. 25, 1972
* * * * *	
Knife River Indian Villages National Historic Site, North Dakota	Oct. 26, 1974
Lincoln Home National Historic Site, Illinois	Aug. 18, 1971
Longfellow National Historic Site, Massachusetts	Oct. 9, 1972
* * * * *	
Martin Van Buren National Historic Site, New York	Oct. 26, 1974
* * * * *	
Puukohola Heiau National Historic Site, Hawaii	Aug. 17, 1972
* * * * *	
Sewall-Belmont House National Historic Site, District of Columbia	Oct. 26, 1974
Springfield Armory National Historic Site, Massachusetts	Oct. 26, 1974
Thaddeus Kosciuszko Home National Historic Site, Pennsylvania	Oct. 21, 1972
Tuskegee Institute National Historic Site, Alabama	Oct. 26, 1974
* * * * *	

LOWELL HISTORIC CANAL DISTRICT, LOWELL, MASSACHUSETTS

Pub. L. 93–645, §§ 1–8, Jan. 4, 1975, 88 Stat. 2330–2332, provided that:

"Sec. 1. [Lowell Historic Canal District Commission; establishment purpose] For the purpose of preserving and interpreting for the educational and inspirational benefit of present and future generations the unique and significant contribution to our national heritage of certain historic and cultural lands, waterways, and edifices in the city of Lowell, Massachusetts (the cradle of the industrial revolution in America as well as America's first planned industrial city) with emphasis on harnessing this unique urban environment for its educational value as well as for recreation, there is hereby established the Lowell Historic Canal District Commission (hereinafter referred to as the 'Commission'), the purpose of which shall be to prepare a plan for the preservation, interpretation, development, and use, by public and private entities, of the historic, cultural, and architectural resources of the Lowell Historic Canal District in the city of Lowell, Massachusetts.

"Sec. 2. [Membership; alternate members; compensation] (a) The Commission shall consist of nine members, as follows:

"(1) the Secretary of the Interior, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Commerce, all ex officio; and

"(2) five members appointed by the Secretary of the Interior, one of whom shall be the Director of the National Park Service, two of whom shall be appointed from recommendations submitted by the manager of the city of Lowell, and two of whom shall be appointed from recommendations submitted by the Governor of the Commonwealth of Massachusetts. The members appointed pursuant to this paragraph shall have knowledge and experience in one or more of the fields of history, architecture, the arts, recreation planning, city planning, or government.

"(b) Each member of the Commission specified in paragraph (1) of subsection (a) and the Director of the National Park Service may designate an alternate official to serve in his stead. Members appointed pursuant to paragraph (2) of subsection (a) who are officers or employees of the Federal Government, the city of Lowell, or the Commonwealth of Massachusetts, shall serve without compensation as such. Other members, when engaged in activities of the Commission, shall be entitled to compensation at the rate of not to exceed $100 per diem. All members of the Commission shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Commission.

"Sec. 3. [Personnel; financial and administrative services] (a) The Commission shall elect a Chairman from among its members. Financial and administrative services (including those relating to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided for the Commission by the General Services Administration, for which payments shall be made in advance, or by reimbursement, from funds of the Commission in such amounts as may be agreed upon by the Chairman of the Commission and the Administrator, General Services Administration: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments shall apply to the collection of erroneous payments made to or on behalf of a Commission employee, and regulations of said Secretary for the administrative control of funds shall apply to appropriations of the Commission: *And provided further*, That the Commission shall not be required to prescribe such regulations.

"(b) The Commission shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and the Classification Act of 1949 [see section 5101 et seq. of Title 5, Government Organization and Employees].

"(c) The Commission may also procure, without regard to the civil service laws and the Classification Act of 1949

[see section 5101 et seq. of Title 5], temporary and intermittent services to the same extent as is authorized for the executive departments by section 15 of the Administrative Expenses Act of 1946 [see section 3109 of Title 5], but at rates not to exceed $100 per diem for individuals.

"(d) The members of the Commission specified in paragraph (1) of section 2(a) shall provide the Commission, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Commission to carry out its duties, to the extent that such facilities and services are requested by the Commission and are otherwise available for that purpose. To the extent of available appropriations, the Commission may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. Upon the termination of the Commission all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

"Sec. 4. [Plan for preservation, etc., contents; time] It shall be the duty of the Commission to prepare the plan referred to in the first section of this Act, and to submit the plan together with any recommendations for additional legislation, to the Congress not later than two years from the effective date of this Act. The plan for the Lowell Historic Canal District shall include considerations and recommendations, without limitation, regarding (1) the objectives to be achieved by the establishment, development, and operation of the area; (2) the types of use, both public and private, to be accommodated; (3) criteria for the design and appearance of buildings, facilities, open spaces, and other improvements; (4) a program for the staging of development; (5) the anticipated interpretive, cultural, and recreational programs and uses for the area; (6) the proposed ownership and operation of all structures, facilities, and lands; (7) areas where cooperative agreements may be anticipated; (8) estimates of costs, both public and private, of implementing the plan; and (9) procedures to be used in implementing and insuring continuing conformance to the plan.

"Sec. 5. [Termination of Commission] The Commission shall be dissolved (1) upon the termination, as determined by its members, of need for its continued existence for the implementation of the plan and the operation or coordination of the entity established by the plan, or (2) upon expiration of a two-year period commencing on the effective date of this Act, whereupon the completed plan has not been submitted to the Congress, whichever occurs first.

"Sec. 6. [Contemplated authorizations] It is contemplated that the plan to be developed may propose that the Commission may be authorized to—

"(1) acquire lands and interests therein within the Lowell Historic Canal District by purchase, lease, donation, or exchange;

"(2) hold, maintain, use, develop, or operate buildings, facilities, and any other properties;

"(3) sell, lease, or otherwise dispose of real or personal property as necessary to carry out the plan;

"(4) enter into and perform such contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States, the Commonwealth of Massachusetts, and any governmental unit within its boundaries, or any person, firm, association, or corporation as may be necessary;

"(5) establish (through covenants, regulations, agreements, or otherwise) such restrictions, standards, and requirements as are necessary to assure development, maintenance, use, and protection of the Lowell Historic Canal District in accordance with the plan; and

"(6) borrow money from the Treasury of the United States in such amounts as may be authorized in appropriation Acts on the basis of obligations issued by the Commission in accordance with terms and conditions approved by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any such obligations of the Commission.

"Sec. 7. [Title to property] Title to property of the Commission shall be in the name of the Commission, but it shall not be subject to any Federal, State, or municipal taxes.

"Sec. 8. [Authorization of appropriations] There are authorized to be appropriated not to exceed $150,000 for the preparation of the plan authorized by this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z–4, 450hh–2, 467a, 469 of this title; title 40 sections 484, 871.

§ 462. Administration by Secretary of the Interior; powers and duties enumerated.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z–4, 450hh–2, 467a, 469 of this title; title 40 section 871.

§ 463. Advisory Board on National Parks, Historic Sites, Buildings, and Monuments; creation, powers and duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410z–4, 450hh–2, 467a, 469 of this title; title 40 sections 484, 871.

§§ 464 to 467.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 410z–4, 450hh–2, 467a, 469 of this title; title 40 section 871.

§ 467a. Mar-A-Lago National Historic Site.

(a) Acceptance and administration upon vesting of Federal possessory rights.

The Secretary of the Interior (hereinafter referred to as the "Secretary") may accept, maintain, develop, and administer the Mar-A-Lago National Historic Site described in the order of designation dated January 16, 1969, as a part of the national park system pursuant to sections 461 to 467 of this title, at such time as the right to possession of the real and personal property comprising the historic site shall vest in the United States.

(b) Temporary residence for visiting foreign dignitaries or heads of state or members of Federal executive office; agreements and actions for such administration and use; administrative determination of additional uses.

The Secretary is directed to use the authority contained in sections 461 to 467 of this title to enter into such agreements and to take such actions as he may deem necessary to provide for administration and for the use of the Mar-A-Lago National Historic Site as a temporary residence for visiting foreign dignitaries or heads of state or members of the executive branch of the United States Government. Any further use of this property shall be determined by the Secretary after conferring with the Mar-A-Lago National Historic Site Advisory Commission. (Pub. L. 92–527, § 1, Oct. 21, 1972, 86 Stat. 1049.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 467a–1 of this title.

§ 467a–1. Same; Mar-A-Lago National Historic Site Advisory Commission.

(a) Establishment.

There is hereby established a Mar-A-Lago National Historic Site Advisory Commission (hereafter referred to as the "Commission").

(b) Membership; term of office; representation of interests; Chairman.

The Commission shall be composed of five members appointed by the Secretary of the Interior for terms of three years each, as follows:

(1) One member to be appointed from recommendations submitted by the Governor of the State of Florida;

(2) One member to be appointed from recommendations submitted by the trustees appointed pursuant to the Mar-A-Lago Trust; and

(3) Three members to be appointed by the Secretary, one of whom shall be designated Chairman of the Commission, to represent the general public interest, and two of whom shall be appointed from recommendations submitted by the town council of Palm Beach, Florida.

(c) Vacancies.

Any vacancy in the Commission shall be filed in the same manner in which the original appointment was made.

(d) Compensation and expenses.

Members of the Commission shall serve without compensation, as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Commission and its members in carrying out their responsibilities under this section and section 467a of this title.

(e) Consultations of Secretary with Commission on general policies and specific matters related to administration of site.

The Secretary, or his designee, shall, as the circumstances require meet and consult with the Commission on general policies and specific matters related to the administration of the historic site.

(f) Voting.

The Commission shall act and advise by affirmative vote of a majority of the members thereof. (Pub. L. 92–527, § 2, Oct. 21, 1972, 86 Stat. 1049.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory Commissions in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Commission established by the President or an officer of the Federal Government, such Commission is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Commission established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776 set out in the Appendix to title 5, Government Organization and Employees.

§ 469. Preservation of historical and archeological data threatened by dam construction or alterations of terrain.

It is the purpose of sections 469 to 469c of this title to further the policy set forth in sections 461 to 467 of this title, by specifically providing for the preservation of historical and archeological data (including relics and specimens) which might otherwise be irreparably lost or destroyed as the result of (1) flooding, the building of access roads, the erection of workmen's communities, the relocation of railroads and highways, and other alterations of the terrain caused by the construction of a dam by any agency of the United States, or by any private person or corporation holding a license issued by any such agency or (2) any alteration of the terrain caused as a result of any Federal construction project or federally licensed activity or program. (As amended Pub. L. 93–291, § 1(1), May 24, 1974, 88 Stat. 174.)

AMENDMENTS

1974—Pub. L. 93–291 designated existing provisions as cl. (1) and added cl. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469a–3, 469b, 469c of this title.

§ 469a. Same; notice of dam construction to be given Secretary of the Interior by United States Agencies.

Before any agency of the United States shall undertake the construction of a dam, or issue a license to any private individual or corporation for the construction of a dam, it shall give written notice to the Secretary of the Interior (hereafter referred to as the Secretary) setting forth the site of the proposed dam and the approximate area to be flooded and otherwise changed if such construction is undertaken: *Provided*, That with respect to any flood water retarding dam which provides less than five thousand acre-feet of detention capacity and with respect to any other type of dam which creates a reservoir of less than forty surface acres the provisions of this section shall apply only when the constructing agency, in its preliminary surveys, finds, or is presented with evidence that historical or archeological materials exist or may be present in the proposed reservoir area. (Pub. L. 86–523, § 2, formerly § 2(a), (b), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93–291, § 1 (2), (5), May 24, 1974, 88 Stat. 174, 175.)

AMENDMENTS

1974—Pub. L. 93–291 struck out designation "(a)" preceding existing subsec. (a) and, in the resulting unlettered provisions, inserted "(hereafter referred to as the Secretary)" after "Secretary of the Interior". Former subsecs. (b) to (e) were disposed of as follows: former subsec. (b) was transferred and amended, and as so transferred and amended, is set out as sections 469a–1 and 469a–2 of this title, former subsecs. (c) and (e) were redesignated as subsecs. (a) and (b), respectively, of section 469a–3 of this title, and former subsec. (d) was deleted.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469a–3, 469b, 469c of this title.

§ 469a–1. Same; threat of irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data by Federal construction projects; notice to Secretary of the Interior; survey; recovery, preservation, and protection of data.

(a) Whenever any Federal agency finds, or is notified, in writing, by an appropriate historical or archeological authority, that its activities in connection with any Federal construction project or federally licensed project, activity, or program may cause irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, such agency shall notify the Secretary, in writing, and shall provide the Secretary with appropriate information concerning the project, program, or activity. Such agency may request the Secretary to undertake the recovery, protection, and preservation of such data (including preliminary survey, or other investigation as needed, and analysis and publication of the reports resulting from such investigation), or it may, with funds appropriated for such project, program, or activity, undertake such activities. Copies of reports of any investigations made pursuant to this section shall be submitted to

the Secretary, who shall make them available to the public for inspection and review.

(b) Whenever any Federal agency provides financial assistance by loan, grant, or otherwise to any private person, association, or public entity, the Secretary, if he determines that significant scientific, prehistorical, historical, or archeological data might be irrevocably lost or destroyed, may with funds appropriated expressly for this purpose conduct, with the consent of all persons, associations, or public entities having a legal interest in the property involved, a survey of the affected site and undertake the recovery, protection, and preservation of such data (including analysis and publication). The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or any nonfederally owned lands. (Pub. L. 86–523, § 3, as added Pub. L. 93–291, § 1(3), May 24, 1974, 88 Stat. 174.)

PRIOR PROVISIONS

A prior section 3 of Pub. L. 86–523 was redesignated section 6 of Pub. L. 86–523 and amended by Pub. L. 93–291, and is set out as section 469b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469a–3, 469b, 469c of this title.

§ 469a–2. Same; survey by Secretary of the Interior; recovery and preservation of data; compensation for delays in construction and for temporary loss of use of land.

(a) The Secretary, upon notification, in writing, by any Federal or State agency or appropriate historical or archeological authority that scientific, prehistorical, historical, or archeological data is being or may be irrevocably lost or destroyed by any Federal or federally assisted or licensed project, activity, or program, shall, if he determines that such data is significant and is being or may be irrevocably lost or destroyed and after reasonable notice to the agency responsible for funding or licensing such project, activity, or program, conduct or cause to be conducted a survey and other investigation of the areas which are or may be affected and recover and preserve such data (including analysis and publication) which, in his opinion, are not being, but should be, recovered and preserved in the public interest.

(b) No survey or recovery work shall be required pursuant to this section which, in the determination of the head of the responsible agency, would impede Federal or federally assisted or licensed projects or activities undertaken in connection with any emergency, including projects or activities undertaken in anticipation of, or as a result of, a natural disaster.

(c) The Secretary shall initiate the survey or recovery effort within sixty days after notification to him pursuant to subsection (a) of this section or within such time as may be agreed upon with the head of the agency responsible for funding or licensing the project, activity, or program in all other cases.

(d) The Secretary shall, unless otherwise mutually agreed to in writing, compensate any person, association, or public entity damaged as a result of delays in construction or as a result of the temporary loss of the use of private or nonfederally owned land. (Pub. L. 86–523, § 4, as added Pub. L. 93–291, § 1(3), May 24, 1974, 88 Stat. 174.)

PRIOR PROVISIONS

A prior section 4 of Pub. L. 86–523 was redesignated section 7 of Pub. L. 86–523 and amended by Pub. L. 93–291, and is set out as section 469c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469a–3, 469b, 469c of this title.

§ 469a–3. Same; progress reports by Secretary of the Interior on surveys and work undertaken as result of surveys; disposition of relics and specimens recovered; coordination of survey and recovery activities; annual report.

(a) The Secretary shall keep the agency responsible for funding or licensing the project notified at all times of the progress of any survey made under sections 469 to 469c of this title or of any work undertaken as a result of such survey, in order that there will be as little disruption or delay as possible in the carrying out of the functions of such agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement.

(b) The Secretary shall consult with any interested Federal and State agencies, educational and scientific organizations, and private institutions and qualified individuals, with a view to determining the ownership of and the most appropriate repository for any relics and specimens recovered as a result of any work performed as provided for in this section.

(c) The Secretary shall coordinate all Federal survey and recovery activities authorized under sections 469 to 469c of this title and shall submit an annual report at the end of each fiscal year to the Interior and Insular Affairs Committees of the United States Congress indicating the scope and effectiveness of the program, the specific projects surveyed and the results produced, and the costs incurred by the Federal Government as a result thereof. (Pub. L. 86–523, § 5, formerly § 2(c), (e), June 27, 1960, 74 Stat. 220, renumbered and amended Pub. L. 93–291, § 1(4), (6), (7), May 24, 1974, 88 Stat. 175.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–291, § 1(4), (6), redesignated former subsec. (c) of section 469a of this title as subsec. (a) of this section and, in subsec. (a) as so redesignated, substituted "agency responsible for funding or licensing the project" for "instigating agency" and "agency and the survey and recovery programs shall terminate at a time mutually agreed upon by the Secretary and the head of such agency unless extended by mutual agreement" for "agency".

Subsec. (b). Pub. L. 93–291, § 1(6), redesignated former subsec. (e) of section 469a of this title as subsec. (b) of this section.

Subsec. (c). Pub. L. 93–291, § 1(7), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469b, 469c of this title.

§ 469b. Same; administration; contracts or agreements; services of experts, consultants, or organizations; acceptance of funds.

In the administration of sections 469 to 469c of this title, the Secretary may—

(1) enter into contracts or make cooperative agreements with any Federal or State agency, any educational or scientific organization, or any institution, corporation, association, or qualified individual; and

(2) obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of Title 5; and

(3) accept and utilize funds made available for salvage archeological purposes by any private person or corporation or transferred to him by any Federal agency.

(Pub. L. 86–523, § 6, formerly § 3, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93–291, § 1(8), May 24, 1974, 88 Stat. 175.)

AMENDMENTS

1974—Par. (2). Pub. L. 93–291 substituted "obtain the services of experts and consultants or organizations thereof in accordance with section 3109 of Title 5" for "procure the temporary or intermittent services of experts or consultants or organizations thereof as provided in section 55a of Title 5".

Par. (3). Pub. L. 93–291 substituted "or corporation to transferred to him by any Federal agency" for "or corporations holding a license issued by an agency of the United States for the construction of a dam or other type of water or power control project".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469a–3, 469c of this title.

§ 469c. Same; assistance to Secretary of the Interior by Federal agencies responsible for construction projects; authorization of appropriations.

(a) To carry out the purposes of sections 469 to 469c of this title, any Federal agency responsible for a construction project may assist the Secretary and/or it may transfer to him such funds as may be agreed upon, but not more than 1 per centum of the total amount authorized to be appropriated for such project, except that the 1 per centum limitation of this section shall not apply in the event that the project involves $50,000 or less: *Provided*, That the costs of such survey, recovery, analysis, and publication shall be considered nonreimbursable project costs.

(b) For the purposes of section 469a–1(b) of this title, there are authorized to be appropriated such sums as may be necessary, but not more than $500,000 in fiscal year 1974; $1,000,000 in fiscal year 1975; $1,500,000 in fiscal year 1976; $1,500,000 in fiscal year 1977; and $1,500,000 in fiscal year 1978.

(c) For the purposes of section 469a–2(a) of this title, there are authorized to be appropriated not more than $2,000,000 in fiscal year 1974; $2,000,000 in fiscal year 1975; $3,000,000 in fiscal year 1976; $3,000,000 in fiscal year 1977; and $3,000,000 in fiscal year 1978. (Pub. L. 86–523, § 7, formerly § 4, June 27, 1960, 74 Stat. 221, renumbered and amended Pub. L. 93–291, § 1(9), May 24, 1974, 88 Stat. 175.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–291 added subsec. (a). Subsecs. (b), (c). Pub. L. 93–291 designated existing unlettered provisions as subsecs. (b) and (c), and in subsecs. (b) and (c) as so designated substituted provisions making separate authorizations of appropriations for purposes of sections 469a–1(b) and 469a–2(a) of this title and covering fiscal years 1974, 1975, 1976, 1977, and 1978 for provisions making a general authorization of appropriations of whatever sums as might be necessary to carry out the purposes of sections 469 to 469c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 469, 469a–3, 469b of this title.

§ 470. Congressional finding and declaration of policy.

EX. ORD. NO. 11593. PROTECTION AND ENHANCEMENT OF THE CULTURAL ENVIRONMENT

Ex. Ord. No. 11593, May 13, 1971, 36 F.R. 8921, provided:

By virtue of the authority vested in me as President of the United States and in furtherance of the purposes and policies of the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 et seq.), the National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470 et seq.), the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461 et seq.), and the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431 et seq.), it is ordered as follows:

SECTION 1. *Policy.* The Federal Government shall provide leadership in preserving, restoring and maintaining the historic and cultural environment of the Nation. Agencies of the executive branch of the Government (hereinafter referred to as "Federal agencies") shall (1) administer the cultural properties under their control in a spirit of stewardship and trusteeship for future generations, (2) initiate measures necessary to direct their policies, plans and programs in such a way that federally owned sites, structures, and objects of historical, architectural or archaeological significance are preserved, restored and maintained for the inspiration and benefit of the people, and (3), in consultation with the Advisory Council on Historic Preservation (16 U.S.C. 470i), institute procedures to assure that Federal plans and programs contribute to the preservation and enhancement of nonfederally owned sites, structures and objects of historical, architectural or archaelogical significance.

SEC. 2. *Responsibilities of Federal agencies.* Consonant with the provisions of the acts cited in the first paragraph of this order, the heads of Federal agencies shall:

(a) no later than July 1, 1973, with the advice of the Secretary of the Interior, and in cooperation with the liaison officer for historic preservation for the State or territory involved, locate, inventory, and nominate to the Secretary of the Interior all sites, buildings, districts, and objects under their jurisdiction or control that appear to qualify for listing on the National Register of Historic Places.

(b) exercise caution during the interim period until inventories and evaluations required by subsection (a) are completed to assure that any federally owned property that might qualify for nomination is not inadvertently transferred, sold, demolished or substantially altered. The agency head shall refer any questionable actions to the Secretary of the Interior for an opinion respecting the property's eligibility for inclusion on the National Register of Historic Places. The Secretary shall consult with the liaison officer for historic preservation for the State or territory involved in arriving at his opinion. Where, after a reasonable period in which to review and evaluate the property, the Secretary determines that the property is likely to meet the criteria prescribed for listing on the National Register of Historic Places, the Federal agency head shall reconsider the proposal in light of national environmental and preservation policy. Where, after such reconsideration, the Federal agency head proposes to transfer, sell, demolish or substantially alter the property he shall not act with respect to the property until the Advisory Council on Historic Preservation shall have been provided an opportunity to comment on the proposal.

(c) initiate measures to assure that where as a result of Federal action or assistance a property listed on the National Register of Historic Places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps, of the property, and that copy of such records then be deposited in the Library of Congress as part of the Historic American Buildings Survey or Historic American Engineering Record for future use and reference. Agencies may call on the Department of the Interior for advice and technical assistance in the completion of the above records.

(d) initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation, or restoration, of federally owned and registered sites at professional standards prescribed by the Secretary of the Interior.

(e) submit procedures required pursuant to subsection (d) to the Secretary of the Interior and to the Advisory Council on Historic Preservation no later than January 1, 1972, and annually thereafter, for review and comment.

(f) cooperate with purchasers and transferees of a property listed on the National Register of Historic Places in the development of viable plans to use such property in a manner compatible with preservation objectives and which does not result in an unreasonable economic burden to public or private interests.

SEC. 3. *Responsibilities of the Secretary of the Interior.* The Secretary of the Interior shall:

(a) encourage State and local historic preservation officials to evaluate and survey federally owned historic properties and, where appropriate, to nominate such properties for listing on the National Register of Historic Places.

(b) develop criteria and procedures to be applied by Federal agencies in the reviews and nominations required by section 2(a). Such criteria and procedures shall be developed in consultation with the affected agencies.

(c) expedite action upon nominations to the National Register of Historic Places concerning federally owned properties proposed for sale, transfer, demolition or substantial alteration.

(d) encourage State and Territorial liaison officers for historic preservation to furnish information upon request to Federal agencies regarding their properties which have been evaluated with respect to historic, architectural or archaeological significance and which as a result of such evaluations have not been found suitable for listing on the National Register of Historic Places.

(e) develop and make available to Federal agencies and State and local governments information concerning professional methods and techniques for preserving, improving, restoring and maintaining historic properties.

(f) advise Federal agencies in the evaluation, identification, preservation, improvement, restoration and maintenance of historic properties.

(g) review and evaluate the plans of transferees of surplus Federal properties transferred for historic monument purposes to assure that the historic character of such properties is preserved in rehabilitation, restoration, improvement, maintenance and repair of such properties.

(h) review and comment upon Federal agency procedures submitted pursuant to section 2(e) of this order.

RICHARD NIXON.

§ 470a. National Register; grants for comprehensive surveys; matching grants-in-aid to National Trust for Historic Preservation in the United States; definitions.

* * * * *

(b) As used in sections 470 to 470b and 470c to 470n of this title—

(1) The term "State" includes, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

* * * * *

(As amended Pub. L. 93–54, § 1(d), July 1, 1973, 87 Stat. 139.)

AMENDMENTS

1973—Subsec. (b)(1). Pub. L. 93–54 defined "State" to include the Trust Territory of the Pacific Islands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 470b, 470c, 470d, 470e, 470g, 470h of this title.

§ 470h. Authorization of appropriations.

To carry out the provisions of sections 470a, 470b and 470c to 470h of this title, there are authorized to be appropriated not more than $15,600,000 in fiscal year 1974, $20,000,000 in fiscal year 1975, and $24,400,000 in fiscal year 1976. Such appropriations shall be available for the financial assistance authorized by sections 470a, 470b and 470c to 470h of this title and for the administrative expenses of the Secretary in connection therewith, and shall remain available until expended. (As amended Pub. L. 93–54, § 1(a), July 1, 1973, 87 Stat. 139.)

AMENDMENTS

1973—Pub. L. 93–54 substituted appropriations authorization of $15,600,000, $20,000,000, and $24,400,000 for fiscal years 1974 through 1976, respectively, for such authorization of $7,000,000, $10,000,000, and $15,000,000 for fiscal years 1971 through 1973, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 470a, 470b, 470c, 470d, 470e, 470g of this title.

§ 470i. Advisory Council on Historic Preservation; establishment; membership; term; vacancies; designation of Chairman; quorum; termination.

* * * * *

(g) The Council shall continue in existence until December 31, 1985. (As amended Pub. L. 93–54, § 1(c), July 1, 1973, 87 Stat. 139.)

AMENDMENTS

1973—Subsec. (g). Pub. L. 93–54 added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 470*l*, 470m of this title.

§ 470m. Executive Director of the Council; additional personnel; temporary and intermittent services; use of facilities and services of Council members on reimbursable basis.

(a) The Director of the National Park Service or his designee shall be the Executive Director of the Council. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel and procurement) shall be provided the Council by the Department of the Interior, for which payments shall be made in advance, or by reimbursement, from funds of the Council in such amounts as may be agreed upon by the Chairman of the Council and the Secretary of the Interior: *Provided*, That the regulations of the Department of the Interior for the collection of indebtedness of personnel resulting from erroneous payments (section 5514(b) of Title 5) shall apply to the collection of erroneous payments made to or on behalf of a Council employee, and regulations of said Secretary for the administrative control of

funds (section 665(g) of Title 31) shall apply to appropriations of the Council: *And provided further*, That the Council shall not be required to prescribe such regulations.

(b) The Council shall have power to appoint and fix the compensation of such additional personnel as may be necessary to carry out its duties, without regard to the provisions of the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5.

(c) The Council may also procure, without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of Title 5, temporary and intermittent services to the same extent as is authorized for the executive departments by section 3109 of Title 5, but as rates not to exceed $50 per diem for individuals.

(d) The members of the Council specified in paragraphs (1) through (9) of section 470i(a) of this title shall provide the Council, on a reimbursable basis, with such facilities and services under their jurisdiction and control as may be needed by the Council to carry out its duties, to the extent that such facilities and services are requested by the Council and are otherwise available for that purpose. To the extent of available appropriations, the Council may obtain, by purchase, rental, donation, or otherwise, such additional property, facilities, and services as may be needed to carry out its duties. (Pub. L. 89–665, title II, § 205, Oct. 15, 1966, 80 Stat. 919; Pub. L. 91–243, § 1(g), May 9, 1970, 84 Stat. 204.)

REFERENCES IN TEXT

The civil service laws, referred to in subsecs. (b) and (c), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that Title.

CODIFICATION

Reference to "section 5514(b) of Title 5" was substituted for "section 46e of Title 5" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees. For the same reason, references to "chapter 51 and subchapter III of chapter 53 of Title 5" and "section 3109 of Title 5" were substituted for "the Classification Act of 1949" and "section 15 of the Administrative Expenses Act of 1946, as amended (5 U.S.C. 55a)", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k of this title.

§ 470n. International Centre for Study of Preservation and Restoration of Cultural Property; United States participation; Council recommendations; appropriations.

* * * * *

(c) For the purposes of this section there are authorized to be appropriated not more than $100,000 in fiscal year 1974, $100,000 in fiscal year 1975, and $125,000 in fiscal year 1976: *Provided*, That effective January 1, 1974, no appropriation is authorized and no payment shall be made to the Centre in excess of 25 per centum of the total annual assessment of such organization. (As amended Pub. L. 93–54, § 1(b), July 1, 1973, 87 Stat. 139.)

AMENDMENTS

1973—Subsec. (c). Pub. L. 93–54 added subsec. (c) and repealed former provisions authorizing appropriation of $100,000 annually for fiscal years 1971 through 1973.

Chapter 2.—NATIONAL FORESTS

SCENIC-RESEARCH AREAS [NEW]

Sec.
541. Cascade Head Scenic-Research Area; establishment.
541a. Same; administration, protection, development, and regulation of use.
541b. Same.
(a) Boundaries; adjustments to boundaries of subareas.
(b) Management plan; development; time; contents.
(c) Subareas; establishment; management objectives.
541c. Same; extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary.
541d. Same.
(a) Acquisition of lands, waters and interests by donation, purchase, etc.
(b) Consent of owner for acquisition of lands in subareas; exceptions; guidelines for determination of substantial change in land use or maintenance.
(c) Substantial change in land use or maintenance; notice by owner; time; manner.
541e. Same; availability of funds for acquisition of lands, etc., within added area.
541f. Same; withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws.
541g. Same.
(a) Advisory council; establishment; consultation; members; term; appointment.
(b) Chairman; vacancies.
(c) Compensations; reimbursement for expenses.
(d) Consultation by Secretary with private groups, etc.; cooperation with other Federal, State, etc., agencies and organizations.
541h. Same; cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation.

ESTABLISHMENT AND ADMINISTRATION

§ 476. Sale of timber.

PUBLIC NOTICE

Authority of the Secretary of Agriculture to reduce to seven days in situation of a major disaster, the minimum period of advance public notice required by this section, see section 5188(c) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 5188.

§ 485. Exchange of lands in national forests; cutting timber in national forests in exchange for lands therein.

EXCHANGE AND ACQUISITION OF ADDITIONAL LANDS

Pub. L. 93–564, Dec. 31, 1974, 88 Stat. 1843, authorized the extension of sections 485 and 486 of this title to certain lands and provided that they should become parts of the Teton National Forest and be subject to the laws, rules, and regulations applicable thereto.

TRANSFER OF LANDS TO THE SECRETARY OF AGRICULTURE

Pub. L. 93–575, Dec. 31, 1974, 88 Stat. 1878, provided: "That, to insure consolidation of lands in the Arapaho National Forest, Colorado, and to afford the opportunity for better management of those lands, the Secretary of the Interior is hereby authorized to transfer certain lands under his jurisdiction and adjacent to the existing boundary of said national forest to the Secretary of Agriculture. Pursuant to this Act, the exterior boundaries of the Arapaho National Forest, Colorado, shall be extended to include all of the lands not presently within such boundaries lying in township 3 south, range 78 west, township 4 south, range 78 west, township 2 south, range 79 west, township 3 south, range 79 west, and township 2 south, range 80 west, sections 7 through 18, and sections 20 through 28, all of the sixth principal meridian."

§§ 486a to 486w. Exchange of lands in specific national forests.

CODIFICATION

Exchanges of land in or adjacent to national forests were authorized by Congress in the following instances:

* * * * *

Carson National Forest—Pub. L. 92–474, §§ 1–4, Oct. 9, 1972, 86 Stat. 790.

* * * * *

Sante Fe National Forest—Pub. L. 92–474, §§ 1–4, Oct. 9, 1972, 86 Stat. 790.

* * * * *

Siuslaw National Forest—Pub. L. 92–260, § 6, Mar. 23, 1972, 86 Stat. 100.

* * * * *

§ 493. Samuel R. McKelvie National Forest; trees from, for homestead settlers.

The Secretary of Agriculture, under such rules and regulations as he may prescribe, may furnish young trees free, from the nurseries on the Samuel R. McKelvie National Forest, so far as they may be spared, to residents of the territory covered by section 224, paragraphs (a), (b), and (c) of Title 43. (As amended Oct. 15, 1971, Pub. L. 92–142, 85 Stat. 393.)

CHANGE OF NAME

Pub. L. 92–142, Oct. 15, 1971, 85 Stat. 393, provided: "That from and after the date of enactment of this Act [Oct. 15, 1971] the national forest situated in the State of Nebraska, Cherry County, known and designated as the 'Nebraska National Forest', Niobrara division, shall be known and designated as the 'Samuel R. McKelvie National Forest'. All laws, regulations, and public documents and records of the United States in which such national forest is designated or referred to under the name of the 'Nebraska National Forest', Niobrara division, shall be held to refer to such national forest under and by the name of the 'Samuel R. McKelvie National Forest'."

§§ 528 to 531.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in sections 670h, 1602, 1607 of this title.

§§ 532 to 534.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1608 of this title.

§ 535. Same; forest development roads; acquisition, construction, and maintenance; maximum economy; methods of financing; cost arrangements for construction standards; transfer of unused effective purchaser credit for road construction.

The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. The Secretary is authorized, under such rules and regulations as he shall prescribe, to permit the transfer of unused effective purchaser credit for road construction earned after December 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest. (As amended Pub. L. 94–154, Dec. 16, 1975, 89 Stat. 823.)

AMENDMENTS

1975—Pub. L. 94–154 authorized the Secretary to permit the transfer of unused effective purchaser credit for road construction earned after Dec. 16, 1975, from one timber sale to a purchaser to another timber sale to the same purchaser within the same National Forest.

FINANCING OF FOREST DEVELOPMENT ROADS

Financing of forest development roads authorized by cl. (2) of this section deemed "budget authority" and "budget outlays" as defined in section 1301(a) of Title 31 and effective for purpose specified in section 1351(a) of Title 31, see section 1608 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 533, 534, 536, 1608 of this title.

§§ 536 to 538.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 1608 of this title.

SCENIC-RESEARCH AREAS [NEW]

§ 541. Cascade Head Scenic-Research Area; establishment.

In order to provide present and future generations with the use and enjoyment of certain ocean headlands, rivers, streams, estuaries, and forested areas, to insure the protection and encourage the study of significant areas for research and scientific purposes, and to promote a more sensitive relationship between man and his adjacent environment, there is hereby established, subject to valid existing rights, the Cascade Head Scenic-Research Area (hereinafter referred to as "the Area") in the Siuslaw National Forest in the State of Oregon. (Pub. L. 93–535, § 1, Dec. 22, 1974, 88 Stat. 1732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e, 541h of this title.

§ 541a. Same; administration, protection, development, and regulation of use.

The administration, protection, development, and regulation of use of the Area shall be by the Secretary of Agriculture (hereinafter referred to as the "Secretary") in accordance with the laws, rules, and regulations applicable to national forests, in such manner as in his judgment will best contribute to attainment of the purpose of sections 541 to 541h of this title. (Pub. L. 93–535, § 2, Dec. 22, 1974, 88 Stat. 1732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541b, 541e, 541h of this title.

§ 541b. Same.

(a) Boundaries; adjustments to boundaries of subareas.

The boundaries of the Area, and the boundaries of the subareas included therein, shall be those shown on the map entitled "Proposed Cascade Head Scenic-Research Area", dated June 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture: *Provided*, That, from time to time, the Secretary may, after public hearing or other appropriate means for public participation, make adjustments in the boundaries of subareas to reflect changing natural conditions or to provide for more effective management of the Area and each of the subareas in accordance with the purposes and provisions of sections 541 to 541h of this title.

(b) Management plan; development; time; contents.

As soon as practicable after December 22, 1974, the Secretary shall, with provisions for appropriate public participation in the planning process, develop a comprehensive management plan for the Area. Said plan shall prescribe specific management objectives and management controls necessary for the protection, management, and development of the Area and each of the subareas established pursuant to subsection (c) of this section.

(c) Subareas; establishment; management objectives.

Within the Area, the following subareas shall be established and shall be managed in accord with the following primary management objectives which shall be supplemental to the general management objectives applicable to the entire Area:

(1) Estuary and Associated Wetlands Subarea: An area managed to protect and perpetuate the fish and wildlife, scenic, and research-education values, while allowing dispersed recreation use, such as sport fishing, nonmotorized pleasure boating, waterfowl hunting, and other uses which the Secretary determines are compatible with the protection and perpetuation of the unique natural values of the subarea. After appropriate study, breaching of existing dikes may be permitted within the subarea.

(2) Lower Slope-Dispersed Residential Subarea: An area managed to maintain the scenic, soil and watershed, and fish and wildlife values, while allowing dispersed residential occupancy, selective recreation use, and agricultural use.

(3) Upper Timbered Slope and Headlands Subareas: Areas managed to protect the scenic, soil and watershed, and fish and wildlife values while allowing selective recreation and extensive research-educational activities. Timber harvesting activity may occur in these subareas only when the Secretary determines that such harvesting is to be conducted in connection with research activities or that the preservation of the timber resource is imminently threatened by fire, old age, infestation, or similar natural occurrences.

(4) Coastline and Sand Dune-Spit Subareas: Areas managed to protect and maintain the scenic and wildlife values while allowing selective recreation and extensive research-educational activities.

(Pub. L. 93–535, § 3, Dec. 22, 1974, 88 Stat. 1732.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541c, 541e, 541h of this title.

§ 541c. Same; extension of boundaries of Siuslaw National Forest; transfer of Federal property to Secretary.

(a) The boundaries of the Siuslaw National Forest are hereby extended to include all of the lands lying within the Area as described in accordance with section 541b of this title which are not within the national forest boundaries on December 22, 1974.

(b) Notwithstanding any other provision of law, any Federal property located on the lands added to the Siuslaw National Forest by this section may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary. Any lands so transferred shall become part of the Siuslaw National Forest. (Pub. L. 93–535, § 4, Dec. 22, 1974, 88 Stat. 1733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e, 541h of this title.

§ 541d. Same.

(a) Acquisition of lands, waters and interests by donation, purchase, etc.

Subject to the provisions of subsection (b) of this section, the Secretary is authorized to acquire lands, waters, or interests therein within the Area by donation, purchase, exchange, or otherwise.

(b) Consent of owner for acquisition of lands in subareas; exceptions; guidelines for determination of substantial change in land use or maintenance.

Within all subareas of the Area except the estuary and associated wetlands subarea, the Secretary may not acquire any land or interest in land without the consent of the owner or owners so long as the owner or owners use such land for substantially the same purposes and in the same manner as it was used and maintained on June 1, 1974: *Provided, however*, That the Secretary may acquire any land or interest in land without the consent of the owner or owners when such land is in imminent danger of being used for different purposes or in a different manner from the use or uses existing on June 1, 1974. The Secretary shall publish, within one hundred and eighty days of December 22, 1974, guidelines which shall be used by him to determine what constitutes a substantial change in land use or maintenance for the non-federally-owned lands within the Area. Within the estuary and associated wetlands subarea the Secretary may acquire any land or interest in land without the consent of the owner or owners at any time, after public hearing.

(c) Substantial change in land use or maintenance; notice by owner; time; manner.

At least thirty days prior to any substantial change in the use or maintenance of any non-federally-owned land within the Area, the owner or owners of such land shall provide notice of such proposed change to the Secretary or his designee, in accordance with such guidelines as the Secretary may establish. (Pub. L. 93–535, § 5, Dec. 22, 1974, 88 Stat 1733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e, 541h of this title.

§ 541e. Same; availability of funds for acquisition of lands, etc., within added area.

Notwithstanding the provisions of section 460*l*–9 (a) (1) of this title, moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of any lands, waters, or interests therein within the area added to the Siuslaw National Forest by sections 541 to 541h of this title. (Pub. L. 93–535, § 6, Dec. 22, 1974, 88 Stat. 1733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541h of this title.

§ 541f. Same; withdrawal from location, entry and patent under mining laws; withdrawal from disposition under mineral leasing laws.

The lands within the Area, subject to valid existing rights, are hereby withdrawn from location, entry, and patent under the United States mining laws and from disposition under all laws pertaining to mineral leasing and all amendments thereto. (Pub. L. 93–535, § 7, Dec. 22, 1974, 88 Stat. 1733.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e, 541h of this title.

§ 541g. Same.

(a) Advisory council; establishment; consultation; members; term; appointment.

The Secretary, pursuant to the Federal Advisory Committee Act, shall establish an advisory council for the Area, and shall consult on a periodic and regular basis with such council with respect to matters relating to management of the Area. The members of the advisory council, who shall not exceed eleven in number, shall serve for the individual staggered terms of three years each and shall be appointed by the Secretary as follows—

(1) a member to represent each county in which a portion of the Area is located, each such appointee to be designated by the respective governing body of the county involved;

(2) a member appointed to represent the State of Oregon, who shall be designated by the Governor of Oregon; and

(3) not to exceed eight members appointed by the Secretary from among persons who, individually or through association with national or local organizations, have an interest in the administration of the Area.

(b) Chairman; vacancies.

The Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(c) Compensation; reimbursement for expenses.

The members shall not receive any compensation for their services as members of the advisory council, but they shall be reimbursed for travel expenses and shall be allowed, as appropriate, per diem or actual subsistence expenses.

(d) Consultation by Secretary with private groups, etc.; cooperation with other Federal, State, etc., agencies and organizations.

In addition to his consultation with the advisory council, the Secretary shall seek the views of other private groups, individuals, and the public, and shall seek the views and assistance of, and cooperate with, all other Federal, State, and local agencies with responsibilities for zoning, planning, migratory fish, waterfowl, and marine animals, water, and natural resources, and all nonprofit agencies and organizations which may contribute information or expertise about the resources, and the management, of the Area, in order that the knowledge, expertise and views of all agencies and groups may contribute affirmatively to the most sensitive present and future use of the Area and its various subareas for the benefit of the public. (Pub. L. 93–535, § 8, Dec. 22, 1974, 88 Stat. 1733.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (a), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, and is classified to section 1 et seq. of Appendix I of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e, 541h of this title.

§ 541h. Same; cooperation with State of Oregon in administration and protection of lands; civil and criminal jurisdiction; power of taxation.

The Secretary shall cooperate with the State of Oregon and political subdivisions thereof in the administration of the Area and in the administration and protection of lands within and adjacent to the Area owned or controlled by the State or political subdivisions thereof. Nothing in sections 541 to 541h of this title shall deprive the State of Oregon or any political subdivision thereof of its right to exercise civil and criminal jurisdiction within the Area consistent with the provisions of sections 541 to 541h of this title, or of its right to tax persons, corporations, franchises or other non-Federal property, in or on the lands or waters within the Area. (Pub. L. 93–535, § 9, Dec. 22, 1974, 88 Stat. 1734.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541e of this title.

Chapter 3.—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

Sec.
551a. Cooperation by Secretary of Agriculture with states and political subdivisions in law enforcement [New].
558a. Volunteers in the National Forests Program [New].
558b. Same; incidental expenses [New].
558c. Same; employment status of volunteers [New].
558d. Same; authorization of appropriations [New].
565a–1. Cooperative agreements between Secretary of Agriculture and public or private agencies, organizations, institutions, and persons covering Forest Service programs; authority; funding [New].
565a–2. Same; Federal employee status of cooperators [New].
565a–3. Same; agreements otherwise authorized by law [New].

Sec.
576c. Same; Supplemental National Forest Reforestation Fund; establishment; duration; authorization of appropriations [New].
576d. Same; expenditure of Fund moneys; availability of moneys from other sources unaffected [New].
576e. Same; annual reports to Congress [New].

§ 551a. Cooperation by Secretary of Agriculture with states and political subdivisions in law enforcement.

The Secretary of Agriculture, in connection with the administration and regulation of the use and occupancy of the national forests and national grasslands, is authorized to cooperate with any State or political subdivision thereof, on lands which are within or part of any unit of the national forest system, in the enforcement or supervision of the laws or ordinances of a State or subdivision thereof. Such cooperation may include the reimbursement of a State or its subdivision for expenditures incurred in connection with activities on national forest system lands. This section shall not deprive any State or political subdivision thereof of its right to exercise civil and criminial jurisdiction, within or on lands which are a part of the national forest system. (Pub. L. 92–82, Aug. 10, 1971, 85 Stat. 303.)

§ 558a. Volunteers in the National Forests Program.

The Secretary of Agriculture (hereinafter referred to as the "Secretary") is authorized to recruit, train, and accept without regard to the civil service [1] classification laws, rules, or regulations the services of individuals without compensation as volunteers for or in aid of interpretive functions, visitor services, conservation measures and development, or other activities in and related to areas administered by the Secretary through the Forest Service. In carrying out this section, the Secretary shall consider referrals of prospective volunteers made by ACTION. (Pub. L. 92–300, § 1, May 18, 1972, 86 Stat. 147.)

REFERENCES IN TEXT

Civil service and classification laws, referred to in text, are classified to sections 3301 et seq., 5101 et seq., and 5331 et seq., of Title 5, Government Organization and Employees.

ACTION, referred to in text, is an agency in the Executive branch of the Government, established by Reorg. Plan No. 1 of 1971, set out as a note under section 2992 of Title 42, The Public Health and Welfare.

SHORT TITLE

Section 5 of Pub. L. 92–300 provided that: "This Act [enacting sections 558a to 558d of this title] may be cited as the 'Volunteers in the National Forests Act of 1972'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 558c, 558d of this title.

§ 558b. Same; incidental expenses.

The Secretary is authorized to provide for incidental expenses, such as transportation, uniforms, lodging, and subsistence. (Pub. L. 92–300, § 2, May 18, 1972, 86 Stat. 147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 558c, 558d of this title.

[1] So in original. The word "and" probably should appear after "civil service".

§ 558c. Same; employment status of volunteers.

(a) Except as otherwise provided in this section, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(b) For the purpose of the tort claim provisions of Title 28, a volunteer under sections 558a to 558d of this title shall be considered a Federal employee.

(c) For the purposes of subchapter I of chapter 81 of Title 5, relating to compensation to Federal employees for work injuries, volunteers under sections 558a to 558d of this title shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of Title 5, and the provisions of that subchapter shall apply. (Pub. L. 92–300, § 3, May 18, 1972, 86 Stat. 147.)

REFERENCES IN TEXT

Tort claim provisions of Title 28, referred to in subsec. (b), are section 1346(b) and section 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 558d of this title.

§ 558d. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 558a to 558d of this title, but not more than $100,000 shall be appropriated in any one year. (Pub. L. 92–300, § 4, May 18, 1972, 86 Stat. 147.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 558c of this title.

§ 560a. Use of imported twine for research or experimental work.

REPEALED

Pub. L. 92–76, title II, § 201, Aug. 10, 1971, 85 Stat. 241; Pub. L. 92–369, title II, 201, Aug. 10, 1972, 86 Stat. 521; Pub. L. 93–120, title II, § 201, Oct. 4, 1973, 87 Stat. 442; Pub. L. 93–404, title II, § 201, Aug. 31, 1974, 88 Stat. 817.

§ 565a–1. Cooperative agreements between Secretary of Agriculture and public or private agencies, organizations, institutions, and persons covering Forest Service programs; authority; funding.

To facilitate the administration of the programs and activities of the Forest Service, the Secretary is authorized to negotiate and enter into cooperative agreements with public or private agencies, organizations, institutions, or persons to construct, operate, and maintain cooperative pollution abatement equipment and facilities, including sanitary landfills, water systems, and sewer systems; to engage in cooperative manpower and job training and development programs; to develop and publish cooperative environmental education and forest history materials; and to perform forestry protection, including fire protection, timber stand improvement, debris removal, and thinning of trees. The Secretary may enter into aforesaid agreements when he determines that the public interest will be benefited and that there exists a mutual interest other than monetary considerations. In such cooperative arrangements, the Secretary is authorized

to advance or reimburse funds to cooperators from any Forest Service appropriation available for similar kinds of work or by furnishing or sharing materials, supplies, facilities, or equipment without regard to the provisions of section 529 of Title 31, relating to the advance of public moneys. (Pub. L. 94–148, § 1, Dec. 12, 1975, 89 Stat. 804.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 565a–2, 565a–3 of this title.

§ 565a–2. Same; Federal employee status of cooperators.

In any agreement authorized by section 565a–1 of this title, cooperators and their employees may perform cooperative work under supervision of the Forest Service in emergencies or otherwise as mutually agreed to, but shall not be deemed to be Federal employees other than for the purposes of chapter 171 of Title 28, and chapter 81 of Title 5. (Pub. L. 94–148, § 2, Dec. 12, 1975, 89 Stat. 804.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 565a–3 of this title.

§ 565a–3. Same; agreements otherwise authorized by law.

Nothing in sections 565a–1 to 565a–3 of this title shall be construed as limiting or modifying the authority of the Secretary to enter into cooperative agreements otherwise authorized by law. (Pub. L. 94–148, § 3, Dec. 12, 1975, 89 Stat. 804.)

§ 566. Expenditure by Secretary of Agriculture for study of effects of tax laws, and so forth, upon forest perpetuation, and so forth; appropriation.

The Secretary of Agriculture shall expend such portions of the appropriations authorized herein as he deems advisable to study the effect of tax laws, methods, and practices upon forest perpetuation, to cooperate with appropriate officials of the various States or other suitable agencies in such investigations and in devising tax laws designed to encourage the conservation and growing of timber, and to investigate and promote practical methods of insuring standing timber on growing forests from losses by fire. There is authorized to be appropriated annually not more than $40,000,000 to enable the Secretary of Agriculture to carry out the provisions of this section and sections 564 and 565 of this title. (As amended May 5, 1972, Pub. L. 92–288, § 3(a), 86 Stat. 134.)

AMENDMENTS

1972—Pub. L. 92–288 substituted authorization of appropriation of $40,000,000 for $9,000,000 for carrying out the provisions of this section and sections 564 and 565 of this title and struck out provisions relating to the maximum appropriation limits for the fiscal years ending June 30, 1945, June 30, 1946, and June 30, 1947.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 527, 566b, 568a of this title.

§ 566a. Repealed. Pub. L. 92–288, § 3(b), May 5, 1972, 86 Stat. 134.

Section, act Oct. 26, 1949, ch. 735, § 1, 63 Stat. 909, provided for annual authorization of appropriations for carrying out sections 564, 565, and 566 of this title, with maximum limits for the fiscal years ending June 30, 1950 through June 30, 1954.

§ 568c. Cooperation by Secretary of Agriculture in providing technical services to private landowners, forest operators, wood processors, and public agencies; plans; utilization of private agencies.

The Secretary of Agriculture is hereby authorized to cooperate with State foresters or appropriate officials of the several States, Territories, and possessions for the purpose of encouraging the States, Territories, and possessions to provide technical services to private landowners, forest operators, wood processors, and public agencies, with respect to the multiple-use management and environmental protection and improvement of forest lands, the harvesting, marketing, and processing of forest products, and the protection, improvement, and establishment of trees and shrubs in urban areas, communities, and open spaces. All such technical services shall be provided in each State, Territory, or possession in accordance with a plan agreed upon in advance between the Secretary and the State forester or appropriate official of the State, Territory, or possession. The provisions of this section and section 568d of this title and the plan agreed upon for each State, Territory, or possession shall be carried out in such manner as to encourage the utilization of private agencies and individuals furnishing services of the type described in this section. (As amended May 5, 1972, Pub. L. 92–288, § 1, 86 Stat. 134.)

AMENDMENTS

1972—Pub. L. 92–288 further authorized the Secretary of Agriculture to cooperate with appropriate officials to provide technical services to others in addition to primary forest processors, and in the multiple use management and environmental protection and improvement of forest lands, and in the protection, improvement and establishment of trees and shrubs in urban areas, communities and open spaces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 568d of this title.

§ 568d. Same; appropriations; apportionment; Congressional intent.

There is authorized to be appropriated annually, to enable the Secretary to carry out the provisions of this section and section 568c of this title, the sum of $20,000,000. Apportionment among the participating States, administrative expenses in connection with cooperative action with such States, and the amount to be expended by the Secretary to make technical services available to private persons and agencies, shall be determined by the Secretary after consultation with a national advisory board of not less than five State foresters or equivalent officials selected by a majority of the State foresters or equivalent officials of all States, Territories, or possessions participating in the program. The amount paid by the Federal Government to any State, Territory, or possession for cooperative action in the State, Territory, or possession shall not exceed during any fiscal year the amount expended by the cooperating State, Territory, or possession for the same purpose during the same fiscal year, and the Secretary of Agriculture is authorized to make such expenditures on the certificate of the appropriate officials of the State, Territory, or possession having charge of the cooperative work for the State, Territory, or possession that the expenditures as herein provided have

been made: *Provided,* That it is the intent of Congress that the Secretary may continue to cooperate with persons and private agencies in furnishing technical forestry services under existing authority. (As amended May 5, 1972, Pub. L. 92–288, § 2, 86 Stat. 134.)

AMENDMENTS

1972—Pub. L. 92–288 substituted authorization of appropriation of $20,000,000 for $5,000,000 for carrying out the provisions of this section and section 568c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 568c of this title.

§ 576b. Same; purchasers of national-forest timber; deposits of money in addition to payments for timber; use of deposits; seedlings and young trees for burned-over areas in national parks.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 576d of this title.

§ 576c. Same; Supplemental National Forest Reforestation Fund; establishment; duration; authorization of appropriations.

Notwithstanding any other provision of law, the Secretary of Agriculture shall establish a "Supplemental National Forest Reforestation Fund", and transfer to that fund beginning with the fiscal year, commencing July 1, 1972, and ending on June 30, 1987, such amounts as may be appropriated therefor. There is hereby authorized to be appropriated for such purpose for each of the fiscal years during such period the sum of $65,000,000. (Pub. L. 92–421, § 1, Sept. 18, 1972, 86 Stat. 678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 576d, 576e of this title.

§ 576d. Same; expenditure of Fund moneys; availability of moneys from other sources unaffected.

Moneys transferred to the National Forest Reforestation Fund under the provisions of sections 576c to 576e of this title shall be available to the Secretary of Agriculture, for expenditure upon appropriation, for the purpose of supplementing programs of tree planting and seeding of national forest lands determined by the Secretary to be in need of reforestation. Such moneys shall be available until expended, and shall be provided without prejudice to appropriations or funds available from other sources for the same purposes, including those available pursuant to section 576b of this title. (Pub. L. 92–421, § 2, Sept. 18, 1972, 86 Stat. 678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 576c of this title.

§ 576e. Same; annual reports to Congress.

The Secretary of Agriculture shall, within one year after September 18, 1972, provide a report to the Congress which sets forth the scope of the total national forest reforestation needs, and a planned program for reforesting such lands, including a description of the extent to which funds authorized by sections 576c to 576e of this title are to be applied to the program. The Secretary shall annually thereafter make a report to the Congress on the use of funds authorized by sections 576c to 576e of this title and the progress toward completion of this planned national forest reforestation program. (Pub. L. 92–421, § 3, Sept. 18, 1972, 86 Stat. 678.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 576d of this title.

§ 581h. Present and prospective requirements for renewable resources; comprehensive survey and analysis by Secretary of Agriculture; implementation and cooperation by Secretary; authorization of appropriations.

The Secretary of Agriculture is hereby authorized and directed to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for the renewable resources of the forest and range lands of the United States, its territories and possessions, and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits and uses in meeting the needs of the people of the United States. The Secretary shall carry out the survey and analysis under such plans as he may determine to be fair and equitable, and cooperate with appropriate officials of each State, territory, or possession of the United States, and either through them or directly with private or other agencies. There is authorized to be appropriated not to exceed $20,000,000 in any fiscal year to carry out the purposes of this section. (As amended Aug. 17, 1974, Pub. L. 93–378, § 2(b), 88 Stat. 476.)

AMENDMENTS

1974—Pub. L. 93–378 substituted provisions authorizing and directing the Secretary to make and keep current a comprehensive survey and analysis of renewable resources of the forest and range lands of the United States, etc., and of supplies of such renewable resources and authorizing appropriations to carry out such survey and analysis, for provisions authorizing and directing the Secretary to make and keep current a comprehensive survey of timber and other forest products in the United States, etc., and of timber supplies, and authorizing appropriations to carry out such survey.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 581 of this title.

RESEARCH PROGRAMS

§ 582a–3. Matching funds; reapportionment to other qualifying institutions.

The amount paid by the Federal Government to any State-certified institutions eligible for assistance under sections 582a to 582a–7 of this title shall not exceed during any fiscal year the amount available to and budgeted for expenditure by such college or university during the same fiscal year for forestry research from non-Federal sources, except that for the fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement hereof shall not be applicable to the Virgin Islands and Guam, and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research. The Secretary is authorized to make such expenditures on the certificate of the appropriate official of the college or university having charge of the forestry research for which the expenditures as herein provided are to be made. If any or all of the colleges or universities

certified for receipt of funds under such sections fails to make available and budget for expenditure for forestry research in any fiscal year sums at least as much as the amount for which it would be eligible for such year under such sections, the difference between the Federal funds available and the funds made available and budgeted for expenditure by the college or university shall be reapportioned by the Secretary to other eligible colleges or universities of the same State if there be any which quality therefor and, if there be none, the Secretary shall reapportion such differences to the qualifying colleges and universities of other States participating in the forestry research program. (As amended Pub. L. 92–318, title V, § 506(i), June 23, 1972, 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92–318 provided that for fiscal years ending June 30, 1971, and June 30, 1972, the matching funds requirement shall not be applicable to the Virgin Islands and Guam and sums authorized for such years for the Virgin Islands and Guam may be used to pay the total cost of programs for forestry research.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 582a–1, 582a–2, 582a–5, 582a–6, 582a–7 of this title.

§ 582a–7. State defined.

The term "State" as used in sections 582a to 582a–7 of this title shall include Puerto Rico, the Virgin Islands, and Guam. (As amended Pub. L. 92–318, title V, § 506(j), June 23, 1972, 86 Stat. 351.)

AMENDMENTS

1972—Pub. L. 92–318 inserted reference to Virgin Islands and Guam.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92–318 effective after June 30, 1970, see section 506(n) of Pub. L. 92–318, set out as a note under section 326a of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 582a–1, 582a–2, 582a–3, 582a–5, 582a–6 of this title.

Chapter 3B.—SOIL CONSERVATION

§ 590e–1. Same; limitations on cost of construction, purchase, or improvement of buildings.

The cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $5,000, except for one building to be constructed at a cost not to exceed $50,000 and eight buildings to be constructed or improved at a cost not to exceed $30,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $1,000 per building. (Pub. L. 94–122, title II, § 201, Oct. 21, 1975, 89 Stat. 658.)

CODIFICATION

Section is from the Agriculture and Related Agencies Appropriation Act, 1976, Pub. L. 94–122. Similar provisions were contained in the following prior appropriation acts:

Pub. L. 92–73, title III, § 301, Aug. 10, 1971, 85 Stat. 195;
Pub. L. 92–399, title III, § 301, Aug. 22, 1972, 86 Stat. 606;
Pub. L. 93–135, title III, § 301, Oct. 24, 1973, 87 Stat. 484;
Pub. L. 93–563, title III, § 301, Dec. 31, 1974, 88 Stat. 1837.

§ 590e–2. Employment of local engineers.

REPEATED

Pub. L. 92–73, title III, § 301, Aug. 10, 1971, 85 Stat. 195;
Pub. L. 92–399, title III, § 301, Aug. 22, 1972, 86 Stat. 606;
Pub. L. 93–135, title III, § 301, Oct. 24, 1973, 87 Stat. 485;
Pub. L. 93–563, title III, § 301, Dec. 31, 1974, 88 Stat. 1837;
Pub. L. 94–122, title II, § 201, Oct. 21, 1975, 89 Stat. 568.

§ 590g. Additional policies and purposes of chapter.

(a) Purposes enumerated.

It is declared to be the policy of this chapter also to secure, and the purposes of this chapter shall also include, (1) preservation and improvement of soil fertility; (2) promotion of the economic use and conservation of land; (3) diminution of exploitation and wasteful and unscientific use of national soil resources; (4) the protection of rivers and harbors against the results of soil erosion in aid of maintaining the navigability of waters and water courses and in aid of flood control; (5) reestablishment, at as rapid a rate as the Secretary of Agriculture determines to be practicable and in the general public interest, of the ratio between the purchasing power of the net income per person on farms and that of the income per person not on farms that prevailed during the five-year period August 1909–July 1914, inclusive, as determined from statistics available in the United States Department of Agriculture, and the maintenance of such ratio; and (6) prevention and abatement of agricultural-related pollution. The powers conferred under this section and sections 590h, 590i, and 590j to 590n of this title shall be used to assist voluntary action calculated to effectuate the purposes specified in this section. Such powers shall not be used to discourage the production of supplies of foods and fibers sufficient to maintain normal domestic human consumption as determined by the Secretary from the records of domestic human consumption in the years 1920 to 1929, inclusive, taking into consideration increased population, quantities of any commodity that were forced into domestic consumption by decline in exports during such period, current trends in domestic consumption and exports of particular commodities, and the quantities of substitutes available for domestic consumption within any general class of food commodities. In carrying out the purposes of this section due regard shall be given to the maintenance of a continuous and stable supply of agricultural commodities adequate to meet consumer demand at prices fair to both producers and consumers.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title VI, § 606(1), 86 Stat. 676.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–419 added cl. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590h, 590h–4, 590i, 590*l*, 590m, 590n, 590o, 590p, 1501 of this title.

§ 590h. Payments and grants of aid.

* * * * *

(b) Payments and grants of aid; local, county, State committees; rules and regulations; rural environmental protection contracts: terms and conditions, period, modification or termination.

The Secretary shall have power to carry out the purposes specified in clauses (1), (2), (3), (4), (5), and (6) of section 590g(a) of this title by making payments or grants of other aid to agricultural producers, including tenants and sharecroppers, in amounts determined by the Secretary to be fair and reasonable in connection with the effectuation of such purposes during the year with respect to which such payments or grants are made, and measured by (1) their treatment or use of their land, or a part thereof, for soil restoration, soil conservation, the prevention of erosion, or the prevention or abatement of agriculture-related pollution; (2) changes in the use of their land; (3) their equitable share, as determined by the Secretary, of the normal national production of any commodity or commodities required for domestic consumption; (4) their equitable share, as determined by the Secretary, of the national production of any commodity or commodities required for domestic consumption and exports adjusted to reflect the extent to which their utilization of cropland on the farm conforms to farming practices which the Secretary determines will best effectuate the purposes specified in section 590g(a) of this title; or (5) any combination of the above. Clauses (1) and (2) above shall be construed to cover water conservation and the beneficial use of water on individual farms, including measures to prevent run-off, the building of check dams and ponds, and providing facilities for applying water to the land. In determining the amount of any payment or grant measured by (1) or (2) the Secretary shall take into consideration the productivity of the land affected by the farming practices adopted during the year with respect to which such payment is made. In carrying out the provisions of this section in the States of the Union, except Alaska, the Secretary is directed to utilize the services of local and State committees selected as hereinafter provided. The Secretary shall designate local administrative areas as units for administration of programs under this section. No such local area shall include more than one county or parts of different counties. Farmers within any such local administrative area, and participating or cooperating in programs administered within such area, shall elect annually from among their number a local committee of not more than three members for such area. The members of the local committees shall, in a county convention, nominate and elect a county committee which shall consist of three members who are farmers in the county. At the first county convention held on or after January 1, 1965, one member of the county committee shall be elected for one year; one member shall be elected for two years; and one member shall be elected for three years. Thereafter, each member of a county committee shall be elected for a term of three years. No member of the county committee shall be elected for more than three consecutive terms (exclusive of any term which began prior to January 1, 1965). The local committee shall select a secretary and may utilize the county agricultural extension agent for such purpose. The county committee shall select a secretary who may be the county agricultural extension agent. If such county agricultural extension agent shall not have been elected secretary of such committee, he shall be ex officio a member of the county committee. The county agricultural extension agent shall not have the power to vote. In any county in which there is only one local committee the local committee shall also be the county committee. In each State there shall be a State committee for the State composed of not less than three or more than five farmers who are legal residents of the State and who are appointed by the Secretary. The State director of the Agricultural Extension Service shall be ex officio a member of such State committee. The ex officio members of the county and State committees shall be in addition to the number of members of such committees hereinbefore specified. The Secretary shall make such regulations as are necessary relating to the selection and exercise of the functions of the respective committees, and to the administration, through such committees, of such programs. In carrying out the provisions of this section, the Secretary shall, as far as practicable, protect the interests of tenants and sharecroppers; is authorized to utilize the agricultural extension service and other approved agencies; shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress and as will tend to promote efficient methods of marketing and distribution; shall not have power to acquire any land or any right or interest therein; shall, in every practicable manner, protect the interests of small producers; and shall in every practical way encourage and provide for soil-conserving and soil-rebuilding practices rather than the growing of soil-depleting crops. Rules and regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, wherever practicable, they shall be classified on two bases: (a) Soil-depleting crops and practices, (b) soil-building crops and practices.

Notwithstanding any other provision of law, in making available conservation materials consisting of seeds, seed inoculants, fertilizers, liming and other soil-conditioning materials, trees, or plants, or in making available soil-conserving and soil-building services or pollution prevention or abatement aids, to agricultural producers under this subsection, the Secretary may make payments, in advance of determination of performance by the producers, to persons who will purchase orders covering approved conservation materials or covering soil-conserving or soil-building services or pollution prevention or abatement aids, furnished to producers, or who render services to the Secretary in delivering to producers approved conservation materials, for the carrying out, by the producers, of soil-building or soil-conserving practices or pollution prevention or abatement practices approved by the Secretary. The price at which purchase orders for any conservation

materials or services are filled may be limited to a fair price fixed in accordance with regulations prescribed by the Secretary.

Appropriations are authorized for the purchase in advance of the program year for which the appropriation is made of seeds, fertilizers, lime, trees, or any other farming materials or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out farming practices approved by the Secretary in programs under this chapter; for the reimbursement of any Federal, State, or local government agency for fertilizers, seeds, lime, trees, or other farming materials, or any soil-terracing services, furnished by such agency; and for the payment of all expenses necessary in making such grants, including all or part of the costs incident to the delivery thereof.

In carrying out the purposes of subsection (a) of section 590g of this title, the Secretary may enter into agreements with agricultural producers for periods not to exceed ten years, on such terms and conditions as the Secretary deems desirable, creating obligations in advance of appropriations not to exceed such amounts as may be specified in annual appropriation Acts. Such agreements (i) shall be based on conservation plans approved by the soil and water conservation district or districts in which the lands described in the agreements are situated, and (ii) may be modified or terminated by mutual consent if the Secretary determines such action would be in the public interest. The Secretary also may terminate agreements if he determines such action to be in the national interest and provides public notice in ample time to give producers a reasonable opportunity to make arrangements for appropriate changes in the use of their land.

* * * * *

(d) Conditions affecting payments or grants of aid.

Any payment or grant of aid made under subsection (b) shall be conditioned upon the utilization of the land, with respect to which such payment is made, in conformity with farming practices which the Secretary finds tend to effectuate any one or more of the purposes specified in clauses (1)—(4), (5), or (6) of section 590g(a) of his title.

* * * * *

(e) Distribution of payments among landlords, tenants, and sharecroppers.

Payments made by the Secretary to farmers under subsection (b) of this section shall be divided among the landlords, tenants, and sharecroppers of any farm, with respect to which such payments are made, in the same proportion that such landlords, tenants, and sharecroppers are entitled to share in the proceeds of the agricultural commodity with respect to which such payments are made, or, effective with respect to the 1942 and subsequent farm programs, in the event of acquisition of title to, or lease of, any farm for use in connection with the national war effort which caused the producers on such farms to lose, prior to the time of harvest, their interests in the crops planted thereon, or the proceeds thereof, payments with respect to such crops, to the extent that full compensation for the loss of payments with respect thereto in connection with such acquisition or lease was not made to such producers, shall be divided among the landlords, tenants, and sharecroppers on such farm in the proportion which it is determined that such producers would have been entitled to share in the proceeds of such crops but for such acquisition or lease: *Provided*, That payments based on soil-building or soil-conserving practices or agriculture-related pollution prevention or abatement practices shall be divided in proportion to the extent which such landlords, tenants, and sharecroppers contribute to the carrying out of such practices. Such payments shall be paid by the Secretary directly to the landlords, tenants, or sharecroppers entitled thereto, and shall be computed at rates which will permit the Secretary to set aside out of the funds available for the making of such payments for each year an amount sufficient to permit the increases herein specified to be made within the limits of the funds so available. If with respect to any farm the total payment to any person for any year would be:

(1) Not more than $20, the payment shall be increased by 40 per centum;

(2) More than $20 but not more than $40, the payment shall be increased by $8, plus 20 per centum of the excess over $20;

(3) More than $40 but not more than $60, the payment shall be increased by $12, plus 10 per centum of the excess over $40;

(4) More than $60 but not more than $186, the payment shall be increased by $14; or

(5) More than $186 but less than $200, the payment shall be increased to $200.

In the case of payments of more than $1, the amount of the payment which shall be used to calculate the 40-, 20-, and 10-per-centum increases under clauses (1)—(3) of this paragraph shall not include that part, if any, of the payment which is a fraction of a dollar.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title VI, §§ 605, 606 (2)–(5), 86 Stat. 676, 677.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–419, §§ 605, 606 (2), (3), added paragraph respecting long-term rural environmental protection contracts; included in the first sentence reference to cl. (6) of section 590g of this title and in item (2) provided as a measure for amount of payments and grants the treatment or use of the land for the prevention or abatement of agriculture-related pollution; and included in the second paragraph provisions respecting making available pollution prevention or abatement aids and orders covering pollution prevention or abatement aids and carrying out by the producers or pollution prevention or abatement practices, respectfully.

Subsec. (d). Pub. L. 92–419, § 606(4), included reference to cl. (6) of section 590g(a) of this title in first par.

Subsec. (e). Pub. L. 92–419, § 606(5), inserted in the proviso provision for payments based on agriculture-related pollution prevention or abatement practices.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590g, 590h–1, 590h–4, 590*l*, 590m, 590n, 590o, 590p, 1507, 1508 of this

title; title 5 sections 5307, 5595, 6312, 8331, 8332, 8334, 8701, 8901; title 7 sections 1301, 1303, 1314c, 1330, 1388, 1391, 1441, 1444, 1444b, 1838.

§ 590o. Appropriations for purposes of sections 590g and 590h; allocation of funds among commodities.

* * * * *

Notwithstanding the foregoing provisions of this section and the provisions of section 590g(g) of this title, programs of soil-building practices, soil- and water-conserving practices, and agriculture-related pollution prevention and abatement practices shall be based on a distribution of the funds available for payments and grants among the several States in accordance with their conservation needs, as determinated by the Secretary, except that the proportion allocated to any State shall not be reduced by more than 15 per centum from the distribution of such funds for the next preceding program year. In carrying out such programs, the Secretary shall give particular consideration to conservation problems on farm lands diverted from crops under acreage allotment programs and to the maintenance of a proper balance between soil conserving and soil depleting crops on the farm. (As amended Aug. 30, 1972, Pub. L. 92–419, title VI, § 606(6), 86 Stat. 677.)

AMENDMENTS

1972—Pub. L. 92–419 made provisions of last paragraph respecting distribution of funds applicable to programs of agriculture-related pollution prevention and abatement practices.

§ 590p. Limitation on obligations incurred; Great Plains conservation program.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590*l*–4, 590n, 590p, 1501 of this title; title 7 sections 1292, 1301, 1330, 1391.

Chapter 4.—PROTECTION OF TIMBER, AND DEPREDATIONS

§ 594–5. Same; appropriations; availability for expenses; procurement of materials and equipment.

There are hereby authorized to be appropriated for the purposes of sections 594–1 to 594–5 of this title such sums as the Congress may from time to time determine to be necessary, such sums appropriated for fiscal year 1975 and thereafter to remain available until expended. Any sums so appropriated shall be available for necessary expenses, including the employment of persons and means in the District of Columbia and elsewhere, printing and binding, and the purchase, maintenance, operation, and exchange of passenger-carrying vehicles; but such sums shall not be used to pay the cost or value of any property injured or destroyed. Materials and equipment necessary to control, suppress, or eradicate infestations of forest insects or tree diseases may be procured without regard to the provisions of section 5 of Title 41 under such procedures as may be prescribed by the Secretary of Agriculture, when deemed necessary in the public interest. (As amended June 20, 1975, Pub. L. 94–40, 89 Stat. 224.)

AMENDMENTS

1975—Pub. L. 94–40 provided that the sums appropriated for fiscal year 1975 and thereafter shall remain available until expended.

Chapter 5.—PROTECTION OF FUR SEALS AND OTHER FUR-BEARING ANIMALS

§ 659. Sea lions; acts prohibiting killing repealed.

All Acts and parts of Acts making it unlawful to kill sea lions, as game animals or otherwise, in the waters of the Territory of Alaska are repealed. (As amended Oct. 21, 1972, Pub. L. 92–522, title I, § 113(b), 86 Stat. 1042.)

AMENDMENTS

1972—Pub. L. 92–522 struck out proviso prohibiting the killing of sea lions in the waters of Alaska except under rules and regulations prescribed by the Secretary of the Interior.

Chapter 5A.—PROTECTION AND CONSERVATION OF WILDLIFE

ENDANGERED SPECIES OF FISH AND WILDLIFE

Sec.
668ff. San Francisco Bay National Wildlife Refuge; establishment and designation [New].
668gg. Same; description [New].
668hh. Same; establishment of area; publication in Federal Register; corrections in boundaries; maximum area; administration by Secretary [New].
668ii. Same; acquisition by Secretary of lands and waters or interests therein [New].
668jj. Same; authorization of appropriations [New].

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 661 to 666c are referred to in sections 668bb, 1534 of this title; title 33 section 1416; title 43 section 421h.

GAME, FUR-BEARING ANIMALS AND FISH

SECTIONS REFERRED TO IN OTHER SECTIONS

Sections 661 to 666c are referred to in section 668bb of this title; title 43 sections 421h, 422h.

§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations.

TRANSFER OF FUNCTIONS

1940 Reorg. Plan No. III, § 3, eff. June 30, 1940, 5 F.R. 2108, 54 Stat. 1232, set out in the Appendix to Title 5, consolidated the Bureau of Fisheries and the Bureau of Biological Survey with their respective functions into one agency in the Department of the Interior to be known as the Fish and Wildlife Service, and abolished the office of the Commissioner and Deputy Commissioner of Fisheries and transferred their functions to the consolidated agency.

§ 667b. Transfer of certain real property for wildlife conservation purposes; reservation of rights.

Upon request, real property which is under the jurisdiction or control of a Federal agency and no longer required by such agency, (1) can be utilized for wildlife conservation purposes by the agency of the State exercising administration over the wildlife resources of the State wherein the real property lies or by the Secretary of the Interior; and (2) is valuable for use for any such purpose, and which, in the determination of the Administrator of General Services, is available for such use may, notwithstanding any other provisions of law, be transferred without reimbursement or transfer of funds (with or without improvements as determined by said Administrator) by the Federal agency having jurisdiction or control of the property to (a) such State agency if the management thereof for the conservation of wildlife relates to other than migratory birds, or (b) to the Secretary of the Interior if the

real property has particular value in carrying out the national migratory bird management program. Any such transfer to other than the United States shall be subject to the reservation by the United States of all oil, gas, and mineral rights, and to the condition that the property shall continue to be used for wildlife conservation or other of the above-stated purposes and in the event it is no longer used for such purposes or in the event it is needed for national defense purposes title thereto shall revert to the United States. (As amended Sept. 26, 1972, Pub. L. 92–432, 86 Stat. 723.)

AMENDMENTS

1972—Pub. L. 92–432 substituted "is valuable for use for any such purpose" for "is chiefly valuable for use for any such purpose" in cl. (2) of the first sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 667c, 667d of this title.

PROTECTION OF BALD AND GOLDEN EAGLES

§ 668. Bald and golden eagles.

(a) Prohibited acts; criminal penalties.

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in sections 668 to 668d of this title, shall knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner any bald eagle commonly known as the American eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to sections 668 to 668d of this title, shall be fined not more than $5,000 or imprisoned not more than one year or both: *Provided*, That in the case of a second or subsequent conviction for a violation of this section committed after October 23, 1972, such person shall be fined not more than $10,000 or imprisoned not more than two years, or both: *Provided further*, That the commission of each taking or other act prohibited by this section with respect to a bald or golden eagle shall constitute a separate violation of this section: *Provided further*, That one-half of any such fine, but not to exceed $2,500, shall be paid to the person or persons giving information which leads to conviction: *Provided further*, That nothing in said sections shall be construed to prohibit possession or transportation of any bald eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to June 8, 1940, and that nothing in said sections shall be construed to prohibit possession or transportation of any golden eagle, alive or dead, or any part, nest, or egg thereof, lawfully taken prior to the addition to said sections of the provisions relating to preservation of the golden eagle.

(b) Civil penalties.

Whoever, within the United States or any place subject to the jurisdiction thereof, without being permitted to do so as provided in sections 668 to 668d of this title, shall take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner, any bald eagle, commonly known as the American eagle, or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles, or whoever violates any permit or regulation issued pursuant to sections 668 to 668d of this title, may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Each violation shall be a separate offense. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. In determining the amount of the penalty, the gravity of the violation, and the demonstrated good faith of the person charged shall be considered by the Secretary. For good cause shown, the Secretary may remit or mitigate any such penalty. Upon any failure to pay the penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found or resides or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. In hearing any such action, the court must sustain the Secretary's action if supported by substantial evidence.

(c) Cancellation of grazing agreements.

The head of any Federal agency who has issued a lease, license, permit, or other agreement authorizing the grazing of domestic livestock on Federal lands to any person who is convicted of a violation of sections 668 to 668d of this title or of any permit or regulation issued hereunder may immediately cancel each such lease, license, permit, or other agreement. The United States shall not be liable for the payment of any compensation, reimbursement, or damages in connection with the cancellation of any lease, license, permit, or other agreement pursuant to this section. (As amended Oct. 23, 1972, Pub. L. 92–535, § 1, 86 Stat. 1064.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–535, § 1(1)–(3), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted "shall knowingly or with wanton disregard for the consequences of his act take" for "shall take", increased the fine and imprisonment terms from $500 or six months to $5,000 or one year, and added provisions that a second conviction carry a penalty of $10,000 fine or imprisonment of not more than two years, that each taking constitute a separate offense, and that informers be rewarded one-half of the fine not exceeding $2,500.

Subsecs. (b), (c). Pub. L. 92–535, § 1(4), added subsecs. (b) and (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668b, 668c, 668d of this title.

§ 668a. Same; taking and using for scientific, exhibition and religious purposes.

Whenever, after investigation, the Secretary of the Interior shall determine that it is compatible with the preservation of the bald eagle or the golden eagle to permit the taking, possession, and transportation of specimens thereof for the scientific or exhibition purposes of public museums, scientific societies, and zoological parks, or for the religious purposes of Indian tribes, or that it is necessary to permit the taking of such eagles for the protection of wildlife or of agricultural or other interests in any

particular locality, he may authorize the taking of such eagles pursuant to regulations which he is hereby authorized to prescribe: *Provided*, That on request of the Governor of any State, the Secretary of the Interior shall authorize the taking of golden eagles for the purpose of seasonally protecting domesticated flocks and herds in such State, in accordance with regulations established under the provisions of this section, in such part or parts of such State and for such periods as the Secretary determines to be necessary to protect such interests: *Provided further*, That bald eagles may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Secretary of the Interior: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking, possession, and transportation of golden eagles for the purposes of falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry. (As amended Oct. 23, 1972, Pub. L. 92–535, § 2, 86 Stat. 1065.)

AMENDMENTS

1972—Pub. L. 92–535 added proviso that the Secretary of the Interior may permit the taking, possession and transportation of golden eagles for the purposes of falconry with exception that only golden eagles that cause depredations on livestock and wildlife may be taken for falconry.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668, 668b, 668c, 668d of this title.

§ 668b. Same; enforcement.

(a) Arrest; search; issuance and execution of warrants and process.

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of sections 668 to 668d of this title may, without warrant, arrest any person committing in his presence or view a violation of sections 668 to 668d of this title or of any permit or regulations issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of sections 668 to 668d of this title; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of sections 668 to 668d of this title, and by said agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of sections 668 to 668d of this title. Any judge of any court established under the laws of the United States, and any United States commissioner may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases.

(b) Forfeiture.

All bald or golden eagles, or parts, nests, or eggs thereof, taken, possessed, sold, purchased, bartered, offered for sale, purchase, or barter, transported, exported, or imported contrary to the provisions of sections 668 to 668d of this title, or of any permit or regulation issued hereunder, and all guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid in the taking, possessing, selling, purchasing, bartering, offering for sale, purchase, or barter, transporting, exporting, or importing of any bird, or part, nest, or egg thereof, in violation of sections 668 to 668d of this title or of any permit or regulation issued hereunder shall be subject to forfeiture to the United States.

(c) Customs laws applied.

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of sections 668 to 668d of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of sections 668 to 668d of this title: *Provided*, That all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of sections 668 to 668d of this title, be exercised or performed by the Secretary of the Interior or by such persons as he may designate. (As amended Oct. 23, 1972, Pub. L. 92–535, § 3, 86 Stat. 1065.)

AMENDMENTS

1972—Pub. L. 92–535 substituted provisions relating to the enforcement of section 668 to 668d of this title including arrest, without warrant, issuance and execution of warrants and process, search, forfeiture, and applicability of certain customs laws, for provisions incorporating provisions of section 706 in haec verba.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668, 668c, 668d of this title.

§ 668c. Same; definitions.

As used in sections 668 to 668d of this title "whoever" includes also associations, partnerships, and corporations; "take" includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb; "transport" includes also ship, convey, carry, or transport by any means whatever, and deliver or receive or cause to be delivered or received for such shipment, conveyance, carriage, or transportation. (As amended Oct. 23, 1972, Pub. L. 92–535, § 4, 86 Stat. 1065.)

AMENDMENTS

1972—Pub. L. 92–535 substituted "poison, wound, kill, capture, trap, collect, molest" for "wound, kill, capture, trap, collect, or otherwise willfully molest".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668, 668b, 668d of this title.

ENDANGERED SPECIES OF FISH AND WILDLIFE

SECTIONS REFERRED TO IN OTHER SECTIONS

Section 668aa et seq. is referred to in sections 1362, 1372, 1402, 1533 of this title.

§§ 668aa to 668cc-6. Repealed. Pub. L. 93-205, § 14, Dec. 28, 1973, 87 Stat. 903.

The provisions of sections 668aa to 668cc-6, which, pursuant to section 12(d) of Pub. L. 91-135, were known as the "Endangered Species Conservation Act of 1969", are now covered by section 1531 et seq. of this title.

Section 668aa, Pub. L. 89-669, § 1, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91-135, § 12(a), (e), Dec. 5, 1969, 83 Stat. 282, 283, set out the Congressional findings, declaration of policy, and statement of purposes in seeking the protection of endangered species of fish and wildlife.

Section 668bb, Pub. L. 89-669, § 2, Oct. 15, 1966, 80 Stat. 926; Pub. L. 91-135, § 12(b), (c), Dec. 5, 1969, 83 Stat. 282, set out the powers and duties of the Secretary of the Interior in carrying out the mandate of the Endangered Species Conservation Act of 1969.

Section 668cc, Pub. L. 89-669, § 3, Oct. 15, 1966, 80 Stat. 927, covered the Secretary's duty to cooperate with the States, area administration, management agreements, and disposition of revenues.

Section 668cc-1, Pub. L. 91-135, § 1, Dec. 5, 1969, 83 Stat. 275, defined the terms "Secretary", "fish or wildlife", "United States", and "person".

Section 668cc-2, Pub. L. 91-135, § 2, Dec. 5, 1969, 83 Stat. 275, covered the importation of endangered species and set out civil and criminal penalties by reference to the provisions of section 668cc-4 of this title.

Section 668cc-3, Pub. L. 91-135, § 3, Dec. 5, 1969, 83 Stat. 275, provided for the determination by the Secretary of the species threatened with extinction, the methods to be used and the factors determinative of the Secretary's determination, and the rule making procedures to be used.

Section 668cc-4, Pub. L. 91-135, § 4, Dec. 5, 1969, 83 Stat. 276, set out the penalties for violation of sections 668cc-2 and 668cc-3 of this title and the provisions for their enforcement.

Section 668cc-5, Pub. L. 91-135, § 5, Dec. 5, 1969, 83 Stat. 278, covered international agreements for fish and wildlife preservation.

Section 668cc-6, Pub. L. 91-135, § 6, Dec. 5, 1969, 83 Stat. 278, called for the coordination of administration of provisions relating to endangered species of fish and wildlife with animal quarantine and tariff laws, and provided for the non-impairment of the functions of the Secretaries of Agriculture and Treasury under agriculture and tariff laws, including imports.

EFFECTIVE DATE OF REPEAL

Repeal effective on Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as a note under section 1531 of this title.

§ 668dd. National Wildlife Refuge System.

* * * * *

(c) Prohibited and permitted activities; application of mining and mineral leasing laws, hunting or fishing regulations, and State laws or regulations.

No person shall knowingly disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System; or take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof within any such area; or enter, use, or otherwise occupy any such area for any purpose; unless such activities are performed by persons authorized to manage such area, or unless such activities are permitted either under subsection (d) of this section or by express provision of the law, proclamation, Executive order, or public land order establishing the area, or amendment thereof: *Provided,* That the United States mining and mineral leasing laws shall continue to apply to any lands within the System to the same extent they apply prior to October 15, 1966, unless subsequently withdrawn under other authority of law. With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1535(c) of this title, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system. The regulations permitting hunting and fishing of resident fish and wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws and regulations. The provisions of this Act shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System.

(d) Use of areas; administration of migratory bird sanctuaries as game taking areas; rights of way, easements, and reservations; payment of fair market value.

(1) The Secretary is authorized, under such regulations as he may prescribe, to—

(A) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: *Provided,* That not to exceed 40 per centum at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe; and

(B) permit the use of, or grant easements in, over, across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, whenever he determines that such uses are compatible with the purposes for which these areas are established.

(2) Notwithstanding any other provision of law, the Secretary of the Interior may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the system in connection with any use permitted by him under paragraph (1)(B) of this subsection unless the grantee pays to the Secretary, at the option of the Secretary, either (A) in lump sum the fair market value (determined by the Secretary as of the date of conveyance to the grantee) of the right-of-way, easement, or reservation; or (B) annually in advance the fair market rental value (determined by the Secretary) of the right-of-way, easement, or reservation. If any Federal, State, or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Secretary by any other means agreeable to the Secretary, including, but not limited to, making other land available or the loan of equipment or personnel; except that

(A) any such compensation shall relate to, and be consistent with, the objectives of the National Wildlife Refuge System, and (B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary of the Interior pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.).

* * * * *

(As amended Pub. L. 93–205, § 13(a), Dec. 28, 1973, 87 Stat. 902; Pub. L. 93–509, § 2, Dec. 3, 1974, 88 Stat. 1603.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–509 designated existing provisions as par. (1)(A) and (B), and added par. (2).

1973—Subsec. (c). Pub. L. 93–205 inserted "With the exception of endangered species and threatened species listed by the Secretary pursuant to section 1533 of this title in States wherein a cooperative agreement does not exist pursuant to section 1535(c) of this title" preceding "nothing in this Act shall be construed" and struck out ", including endangered species thereof," preceding "on lands not within the System" in the second sentence.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–509 provided that: "Section 4(d)(2) of the Act of October 15, 1966 (as added by this Act) [subsec. (d)(2) of this section], shall apply with respect to any right-of-way, easement, or reservation granted by the Secretary of the Interior on or after the date of the enactment of this Act [Dec. 3, 1974], including any right-of-way, easement, or reservation granted on or after such date in connection with any use permitted by him pursuant to section 4(d)(2) of the Act of October 15, 1966 [now subsec. (d)(1)(B) of this section] (as in effect before the date of the enactment of this Act)."

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SHORT TITLE

Section 1 of Pub. L. 93–509 provided: "That this Act [amending this section and section 715s of this title, and enacting provisions set out as notes under this section] may be cited as the 'National Wildlife Refuge System Administration Act Amendments of 1974'."

NATIONAL WILDLIFE REFUGES

Site of Refuge	*Date of Designation*
Egmont Key National Wildlife Refuge, Fla	July 10, 1974
Great Dismal Swamp National Wildlife Refuge, Virginia and North Carolina	Aug. 30, 1974
San Francisco Bay National Wildlife Refuge, Calif	June 30, 1972
Seal Beach National Wildlife Refuge, Calif	Aug. 29, 1972
Wyandotte National Wildlife Refuge, Mich	Aug. 3, 1961

NATIONAL ENVIRONMENTAL CENTERS

Environmental Centers	*Date Designated*
Tinicum National Environmental Center, Pennsylvania	June 30, 1972

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–4, 668hh of this title.

§ 668ee. Definitions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459j–4, 668hh of this title.

§ 668ff. San Francisco Bay National Wildlife Refuge; establishment and designation.

For the preservation and enhancement of highly significant wildlife habitat in the area known as south San Francisco Bay in the State of California, for the protection of migatory waterfowl and other wildlife, including species known to be threatened with extinction, and to provide an opportunity for wildlife-oriented recreation and nature study within the open space so preserved, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the San Francisco Bay National Wildlife Refuge (hereinafter referred to as the "refuge"). (Pub. L. 92–330, §1, June 30, 1972, 86 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668hh, 668jj of this title.

§ 668gg. Same; description.

There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, salt ponds, submerged lands, and open waters in the south San Francisco Bay area generally depicted on the map entitled "Boundary Map, Proposed San Francisco Bay National Wildlife Refuge", dated July 1971, and which comprise approximately twenty-one thousand six hundred and sixty-two acres within four distinct units to be known as Fremont (five thousand five hundred and twenty acres), Mowry Slough (seven thousand one hundred and seventy-five acres), Alviso (three thousand and eighty acres), and Greco Island (five thousand eight hundred and eighty-seven acres). Said boundary map shall be on file and available for public inspection in the offices of the Bureau of Sport Fisheries and Wildlife, Department of the Interior. (Pub. L. 92–330, § 2, June 30, 1972, 86 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668hh, 668jj of this title.

§ 668hh. Same; establishment of area; publication in Federal Register; corrections in boundaries; maximum area; administration by Secretary.

(a) The Secretary shall establish the refuge by publication of a notice to that effect in the Federal Register at such time as he determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired for administration in accordance with the purposes of sections 668ff to 668jj of this title. The Secretary may from time to time make corrections in the boundaries of the refuge, but the total area within the boundaries shall not exceed twenty-three thousand acres of land, marshes, tidal flats, salt ponds, submerged lands, and open waters.

(b) Prior to the establishment of the refuge and thereafter, the Secretary shall administer the lands, waters, and interests therein acquired for the refuge in accordance with the provisions of sections 668dd and 668ee of this title; except that the Secretary

may utilize such additional statutory authority as may be available to him for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of sections 668ff to 668jj of this title. (Pub. L. 92–330, § 3, June 30, 1972, 86 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 668jj of this title.

§ 668ii. Same acquisition by Secretary of lands and waters or interests therein.

The Secretary may acquire lands and waters or interests therein within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange: *Provided, however,* That lands, waters, and interests therein owned by the State of California or any political subdivision thereof may be acquired only by donation. (Pub. L. 92–330, § 4. June 30, 1972, 86 Stat. 399.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668hh, 668jj of this title.

§ 668jj. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 668ff to 668jj of this title for the period beginning July 1, 1972, and ending June 30, 1977, not to exceed, however, $9,000,000 for the acquisition of lands and interests therein as authorized by section 668ii of this title, and not to exceed $11,300,000 for the carrying out of the other provisions of sections 668ff to 668jj of this title. (Pub. L. 92–330, § 5, June 30, 1972, 86 Stat. 400.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 668hh of this title.

Chapter 5B.—WILDLIFE RESTORATION

§ 669b. Appropriations; disposition of unexpended funds.

An amount equal to all revenues accruing each fiscal year (beginning with the fiscal year 1975) from any tax imposed on specified articles by sections 4161 (b) and 4181 of the Internal Revenue Code of 1954, shall, subject to the exemptions in section 4182 of such Code, be covered into the Federal aid to wildlife restoration fund in the Treasury (hereinafter referred to as the "fund") and is authorized to be appropriated and made available until expended to carry out the purposes of this chapter. (As amended Oct. 25, 1972, Pub. L. 92–558, title I, § 101(a), 86 Stat. 1172.)

REFERENCES IN TEXT

Section 4161(b), 4181 and 4182 of the Internal Revenue Code of 1954, referred to in text, are sections 4161(b), 4181 and 4182 of Title 26, Internal Revenue Code.

AMENDMENTS

1972—Pub. L. 92–558 substituted "(beginning with the fiscal year 1975)" for "(beginning with the fiscal year 1971)" and added reference to section 4161(b) of the Internal Revenue Code of 1954.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 101(c) of Pub. L. 92–558, as amended by Pub. L. 93–313, June 8, 1974, 88 Stat. 238, provided that: "The amendments made by subsections (a) [amending this section] and (b) [amending subsec. (b) of section 669c of this title] shall take effect January 1, 1975."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 669b–1, 669e of this title.

§ 669c. Apportionment of funds; expenses of Secretary.

* * * * *

(b) One-half of the revenues accruing to the fund under this chapter each fiscal year (beginning with the fiscal year 1975) from any tax imposed on pistols, revolvers, bows, and arrows shall be apportioned among the States in proportion to the ratio that the population of each State bears to the population of all the States: *Provided,* That each State shall be apportioned not more than 3 per centum and not less than 1 per centum of such revenues. For the purpose of this subsection, population shall be determined on the basis of the latest decennial census for which figures are available, as certified by the Secretary of Commerce. (As amended Oct. 25, 1972, Pub. L. 92–558, title I, § 101(b), 86 Stat. 1172.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–558 substituted "(beginning with the fiscal year 1975)" for "(beginning with the fiscal year 1971)" and "pistols, revolvers, bows, and arrows" for "pistols and revolvers".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b) of this section by Pub. L. 92–558 effective Jan. 1, 1975, see section 101(c) of Pub. L. 92–558, set out as a note under section 669b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 669b–1, 669g of this title.

§ 669g. Maintenance of projects; expenditures for management of wildlife, areas and resources.

* * * * *

(b) Each State may use the funds apportioned to it under section 669c(b) of this title to pay up to 75 per centum of the costs of a hunter safety program and the construction, operation, and maintenance of public target ranges, as a part of such program. The non-Federal share of such costs may be derived from license fees paid by hunters, but not from other Federal grant programs. The Secretary shall issue not later than the 120th day after the effective date of this subsection such regulations as he deems advisable relative to the criteria for the establishment of hunter safety programs and public target ranges under this subsection. (As amended Oct. 25, 1972, Pub. L. 92–558, title I, § 102(a), 86 Stat. 1173.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–558 substituted "public target ranges" for "public outdoor target ranges" in two places.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 102(b) of Pub. L. 92–558 provided that: "The amendments made by subsection (a) of this section [amending subsec. (b) of this section] shall take effect on the date of the enactment of this Act [Oct. 25, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 669b–1 of this title.

Chapter 50.—CONSERVATION PROGRAMS ON GOVERNMENT LANDS

SUBCHAPTER II.—CONSERVATION PROGRAMS ON PUBLIC LANDS [NEW]

Sec.
670g. Wildlife, fish, and game conservation and rehabilitation programs; cooperation between Secretary of Interior, Secretary of Agriculture, and State agencies in planning, etc., in accordance with comprehensive plans; scope and implementation of programs.
670h. Comprehensive plans for conservation and rehabilitation programs.
(a) Development by Secretary of Interior and Secretary of Agriculture; consultation with State agencies; prior written approval of concerned Federal agencies.
(b) Development consistent with overall land use and management plans; hunting, trapping, and fishing authorized in accordance with applicable State laws and regulations.
(c) Cooperative agreements by State agencies for implementation of programs; modifications; contents; hunting, trapping and fishing authorized in accordance with applicable State laws and regulations; regulations.
670i. Public land management area stamps; agreement between State agencies and Secretary of Interior and Secretary of Agriculture requiring stamps for hunting, trapping, and fishing on public lands subject to programs; conditions of agreement.
670j. Enforcement provisions.
(a) Violations and penalties.
(b) Designation of enforcement personnel; powers; issuance of arrest warrants; trial and sentencing by United States magistrates.
(c) Seizure and forfeiture of equipment and vessels.
(d) Applicability of customs laws to seizures and forfeitures; exceptions.
670k. Definitions.
670l. Applicability to Forest Service and Bureau of Land Management lands of public land management area stamp requirements; authorized fees.
670m. Indian rights unaffected; State or Federal jurisdiction regulating Indian rights preserved.
670n. Joint Federal-State Land Use Planning Commission for Alaska jurisdiction, authority, etc., unaffected; submission of views by Commission.
670o. Authorization of appropriations.

SUBCHAPTER I.—CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 670n of this title.

§ 670a. Wildlife, fish, and game conservation; cooperative plan between Secretary of Defense, Secretary of Interior, and State agencies; permits; fees.

The Secretary of Defense is hereby authorized to carry out a program of planning, development, maintenance and coordination of wildlife, fish and game conservation and rehabilitation in military reservations in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of Interior and the appropriate State agency designated by the State in which the reservation is located. Such cooperative plan shall provide for (1) fish and wildlife habitat improvements or modifications, (2) range rehabilitation where necessary for support of wildlife, and (3) control of off-road vehicle traffic. Such cooperative plan may stipulate the issuance of special State hunting and fishing permits to individuals and require this payment of a nominal fee therefor, which fees shall be utilized for the protection, conservation and management of fish and wildlife, including habitat improvement and related activities in accordance with the cooperative plan: *Provided*, That the Commanding Officer of the reservation or persons designated by him are authorized to enforce such special hunting and fishing permits and to collect the fees therefor, acting as agent or agents for the State if the cooperative plan so provides. (Pub. L. 86–797, title I, § 101, formerly § 1, Sept. 15, 1960, 74 Stat. 1052, renumbered and amended Pub. L. 93–452, §§ 1(1), 3(1), (2), Oct. 18, 1974, 88 Stat. 1369, 1375.)

AMENDMENTS

1974—Pub. L. 93–452, §§ 1(1), 3(2), added provisions requiring the cooperative plan to provide for fish and wildlife habitat improvements, range rehabilitation, and off-road vehicle traffic control.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 670f of this title.

§ 670b. Migratory game birds; permits; fees; Stamp Act and State law requirements.

The Secretary of Defense in cooperation with the Secretary of the Interior and the appropriate State agency is authorized to carry out a program for the conservation, restoration and management of migratory game birds on military reservations, including the issuance of special hunting permits and the collection of fees therefor, in accordance with a cooperative plan mutually agreed upon by the Secretary of Defense, the Secretary of the Interior and the appropriate State agency: *Provided*, That possession of a special permit for hunting migratory game birds issued pursuant to this subchapter shall not relieve the permittee of the requirements of the Migratory Bird Hunting Stamp Act as amended nor of the requirements pertaining to State law set forth in Public Law 85–337. (Pub. L. 86–797, title I, § 102, formerly § 2, Sept. 15, 1960, 74 Stat. 1053, renumbered and amended Pub. L. 93–452, § 3 (1), (3), Oct. 18, 1974, 88 Stat. 1375.)

AMENDMENTS

1974—Pub. L. 93–452, § 3(3), substituted "title" for "Act" which for purposes of codification was translated as "subchapter".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 670f of this title.

§ 670c. Public outdoor recreation resources; cooperative plan between Secretary of Defense, Secretary of Interior, and State agencies.

Section 3 of Pub. L. 86–797 was redesignated title I, § 103, by Pub. L. 93–452, § 3(1), Oct. 18, 1974, 88 Stat. 1375.

§ 670d. Liability for funds; accounting to Comptroller General.

The Department of Defense is held free from any liability to pay into the Treasury of the United States upon the operation of the program or programs authorized by this subchapter any funds which may have been or may hereafter be collected, received or expended pursuant to, and for the purposes of, this subchapter, and which collections,

receipts and expenditures have been properly accounted for to the Comptroller General of the United States. (Pub. L. 86–797, title I, § 104, formerly § 4, Sept. 15, 1960, 74 Stat. 1053, renumbered and amended Pub. L. 93–452, § 3 (1), (4), Oct. 18, 1974, 88 Stat. 1375.)

AMENDMENTS

1974—Pub. L. 93–452, § 3(4), substituted "title" for "Act" wherever appearing therein, which for purposes of codification was translated as "subchapter".

§ 670e. Applicability to other laws; national forest lands.

Section 5 of Pub. L. 86–797 was redesignated title I, § 105, by Pub. L. 93–452, § 3(1), Oct. 18, 1974, 88 Stat. 1375.

§ 670f. Expenditure of funds collected; purposes; authorization of appropriations; utilization of services of Secretary of Interior; availability of funds.

(a) The Secretary of Defense shall expend such funds as may be collected in accordance with the cooperative plans agreed to under sections 670a and 670b of this title and for no other purpose.

(b) There is also authorized to be appropriated to the Secretary of Defense not to exceed $500,000 per fiscal year for the fiscal years beginning July 1, 1969, July 1, 1970, and July 1, 1971, and not to exceed $1,500,000 for the fiscal year beginning July 1, 1972, and for each of the next five fiscal years thereafter, to carry out this subchapter, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this subchapter. There is authorized to be appropriated to the Secretary of the Interior not to exceed $2,000,000 for the fiscal year beginning July 1, 1973, and for each of the next four fiscal years thereafter to enable the Secretary to carry out such functions and responsibilities as he may have under cooperative plans to which he is a party under this subchapter. Sums authorized to be appropriated under this subchapter shall be available until expended. (Pub. L. 86–797, title I, § 106, formerly § 6, as added Pub. L. 90–465, § 2, Aug. 8, 1968, 82 Stat. 661, and renumbered and amended Pub. L. 93–452, §§ 1(2), 3(1), (4), (5), Oct. 18, 1974, 88 Stat. 1369, 1375.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–452, § 3(5), substituted "sections 101 and 102" for "sections 1 and 2" which for purposes of codification was translated as "sections 670a and 670b", therefore requiring no change in text because of redesignation of former sections 1 and 2 of Pub. L. 86–797 by section 3(1) of Pub. L. 93–452.

Subsec. (b). Pub. L. 93–452, §§ 1(2), 3(4), added provisions authorizing appropriations of not to exceed $1,500,000 for the fiscal year beginning July 1, 1972, and for each of the next five fiscal years thereafter, and authorizing appropriations to the Secretary of Interior not to exceed $2,000,000 for the fiscal year beginning July 1, 1973, and for each of the next four fiscal years thereafter, and substituted "title" for "Act" wherever appearing therein, which for purposes of codification was translated as "subchapter".

SUBCHAPTER II.—CONSERVATION PROGRAMS ON PUBLIC LANDS [NEW]

§ 670g. Wildlife, fish, and game conservation and rehabilitation programs; cooperation between Secretary of Interior, Secretary of Agriculture, and State agencies in planning, etc., in accordance with comprehensive plans; scope and implementation of programs.

(a) The Secretary of the Interior and the Secretary of Agriculture shall each, in cooperation with the State agencies and in accordance with comprehensive plans developed pursuant to section 670h of this title, plan, develop, maintain, and coordinate programs for the conservation and rehabilitation of wildlife, fish, and game. Such conservation and rehabilitation programs shall include, but not be limited to, specific habitat improvement projects and related activities and adequate protection for species considered threatened or endangered.

(b) The Secretary of the Interior shall implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under his jurisdiction. The Secretary of the Interior shall adopt, modify, and implement the conservation and rehabilitation programs required under subsection (a) of this section on public land under the jurisdiction of the Chairman, but only with the prior written approval of the Atomic Energy Commission, and on public land under the jurisdiction of the Administrator, but only with the prior written approval of the Administrator. The Secretary of Agriculture shall implement such conservation and rehabilitation programs on public land under his jurisdiction. (Pub. L. 86–797, title II, § 201, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1369.)

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

§ 670h. Comprehensive plans for conservation and rehabilitation programs.

(a) Development by Secretary of Interior and Secretary of Agriculture; consultation with State agencies; prior written approval of concerned Federal agencies.

(1) The Secretary of the Interior shall develop, in consultation with the State agencies, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under his jurisdiction and the Secretary of Agriculture shall do the same in connection with public land under his jurisdiction.

(2) The Secretary of the Interior shall develop, with the prior written approval of the Atomic Energy Commission, a comprehensive plan for conservation and rehabilitation programs to be implemented on public land under the jurisdiction of the Chairman and develop, with the prior written approval of the Administrator, a comprehensive plan for such programs to be implemented on public land under the

jurisdiction of the Administrator. Each such plan shall be developed after the Secretary of the Interior makes, with the prior written approval of the Chairman or the Administrator, as the case may be, and in consultation with the State agencies, necessary studies and surveys of the land concerned to determine where conservation and rehabilitation programs are most needed.

(b) Development consistent with overall land use and management plans; hunting, trapping, and fishing authorized in accordance with applicable State laws and regulations.

Each comprehensive plan developed pursuant to this section shall be consistent with any overall land use and management plans for the lands involved. In any case in which hunting, trapping, or fishing (or any combination thereof) of resident fish and wildlife is to be permitted on public land under a comprehensive plan, such hunting, trapping, and fishing shall be conducted in accordance with applicable laws and regulations of the State in which such land is located.

(c) Cooperative agreements by State agencies for implementation of programs; modification; contents; hunting, trapping and fishing authorized in accordance with applicable State laws and regulations; regulations.

(1) Each State agency may enter into a cooperative agreement with—

(A) the Secretary of the Interior with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction;

(B) the Secretary of Agriculture with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land which is under his jurisdiction; and

(C) the Secretary of the Interior and the Chairman or the Administrator, as the case may be, with respect to those conservation and rehabilitation programs to be implemented under this subchapter within the State on public land under the jurisdiction of the Chairman or the Administrator; except that before entering into any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before entering into any cooperative agreement which affects public lands under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

Conservation and rehabilitation programs developed and implemented pursuant to this subchapter shall be deemed as supplemental to wildlife, fish, and game-related programs conducted by the Secretary of the Interior and the Secretary of Agriculture pursuant to other provisions of law. Nothing in this subchapter shall be construed as limiting the authority of the Secretary of the Interior or the Secretary of Agriculture, as the case may be, to manage the national forests or other public lands for wildlife and fish and other purposes in accordance with the Multiple-Use Sustained-Yield Act of 1960 or other applicable authority.

(2) Any conservation and rehabilitation program included within a cooperative agreement entered into under this subsection may be modified in a manner mutually agreeable to the State agency and the Secretary concerned (and the Chairman or the Administrator, as the case may be, if public land under his jurisdiction is involved). Before modifying any cooperative agreement which affects public land under the jurisdiction of the Chairman, the Secretary of the Interior shall obtain the prior written approval of the Atomic Energy Commission and before modifying any cooperative agreement which affects public land under the jurisdiction of the Administrator, the Secretary of the Interior shall obtain the prior written approval of the Administrator.

(3) Each cooperative agreement entered into under this subsection shall—

(A) specify those areas of public land within the State on which conservation and rehabilitation programs will be implemented;

(B) provide for fish and wildlife habitat improvements or modifications, or both;

(C) provide for range rehabilitation where necessary for support of wildlife;

(D) provide adequate protection for fish and wildlife officially classified as threatened or endangered pursuant to section 1533 of this title or considered to be threatened, rare, or endangered by the State agency;

(E) require the control of off-road vehicle traffic;

(F) if the issuance of public land area management stamps is agreed to pursuant to section 670i (a) of this title—

(i) contain such terms and conditions as are required under section 670i(b) of this title;

(ii) require the maintenance of accurate records and the filing of annual reports by the State agency to the Secretary of the Interior or the Secretary of Agriculture, or both, as the case may be, setting forth the amount and disposition of the fees collected for such stamps; and

(iii) authorize the Secretary concerned and the Comptroller General of the United States, or their authorized representatives, to have access to such records for purposes of audit and examination; and

(G) contain such other terms and conditions as the Secretary concerned and the State agency deem necessary and appropriate to carry out the purposes of this subchapter.

A cooperative agreement may also provide for arrangements under which the Secretary concerned may authorize officers and employees of the State agency to enforce, or to assist in the enforcement of, section 670j(a) of this title.

(4) Except where limited under a comprehensive plan or pursuant to cooperate agreement, hunting, fishing, and trapping shall be permitted with respect to resident fish and wildlife in accordance with applicable laws and regulations of the State in which

such land is located on public land which is the subject of a conservation and rehabilitation program implemented under this subchapter.

(5) The Secretary of the Interior and the Secretary of Agriculture, as the case may be, shall prescribe such regulations as are deemed necessary to control, in a manner consistent with the applicable comprehensive plan and cooperative agreement, the public use of public land which is the subject of any conservation and rehabilitation program implemented by him under this subchapter. (Pub. L. 86–797, title II, § 202, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1369.)

REFERENCES IN TEXT

Multiple-Use Sustained-Yield Act of 1960, referred to in subsec. (c), is classified to sections 528 to 531 of this title.

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions, by Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 670g, 670j of this title.

§ 670i. Public land management area stamps; agreement between State agencies and Secretary of Interior and Secretary of Agriculture requiring stamps for hunting, trapping, and fishing on public lands subject to programs; conditions of agreement.

(a) Any State agency may agree with the Secretary of the Interior and the Secretary of Agriculture (or with the Secretary of the Interior or the Secretary of Agriculture, as the case may be, if within the State concerned all conservation and rehabilitation programs under this subchapter will be implemented by him) that no individual will be permitted to hunt, trap, or fish on any public land within the State which is subject to a conservation and rehabilitation program implemented under this subchapter unless at the time such individual is engaged in such activity he has on his person a valid public land management area stamp issued pursuant to this section.

(b) Any agreement made pursuant to subsection (a) of this section to require the issuance of public land management area stamps shall be subject to the following conditions:

(1) Such stamps shall be issued, sold, and the fees therefor collected, by the State agency or by the authorized agents of such agency.

(2) Notice of the requirement to possess such stamps shall be displayed prominently in all places where State hunting, trapping, or fishing licenses are sold. To the maximum extent practicable, the sale of such stamps shall be combined with the sale of such State hunting, trapping, and fishing licenses.

(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose. If such programs are implemented by both the Secretary of the Interior and the Secretary of Agriculture in the State, the Secretaries shall mutually agree, on such basis as they deem reasonable, on the proportion of such fees that shall be applied by the State agency to their respective programs.

(4) The purchase of any such stamp shall entitle the purchaser thereof to hunt, trap, and fish on any public land within such State which is the subject of a conservation or rehabilitation program implemented under this subchapter except to the extent that the public use of such land is limited pursuant to a comprehensive plan or cooperative agreement; but the purchase of any such stamp shall not be construed as (A) eliminating the requirement for the purchase of a migratory bird hunting stamp as set forth in section 718a of this title, or (B) relieving the purchaser from compliance with any applicable State game and fish laws and regulations.

(5) The amount of the fee to be charged for such stamps, the age at which the individual is required to acquire such a stamp, and the expiration date for such stamps shall be mutually agreed upon by the State agency and the Secretary or Secretaries concerned; except that each such stamp shall be void not later than one year after the date of issuance.

(6) Each such stamp must be validated by the purchaser thereof by signing his name across the face of the stamp.

(7) Any individual to whom a stamp is sold pursuant to this section shall upon request exhibit such stamp for inspection to any officer or employee of the Department of the Interior or the Department of Agriculture, or to any other person who is authorized to enforce section 670j(a) of this title.

(Pub. L. 86–797, title II, § 203, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1371.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 670h of this title.

§ 670j. Enforcement provisions.

(a) Violations and penalties.

(1) Any person who hunts, traps, or fishes on any public land which is subject to a conservation and rehabilitation program implemented under this subchapter without having on his person a valid public land management area stamp, if the possession of such a stamp is required, shall be fined not more than $1,000, or imprisoned for not more than six months, or both.

(2) Any person who knowingly violates or fails to comply with any regulations prescribed under section 670h(c)(5) of this title shall be fined not more than $500, or imprisoned not more than six months, or both.

(b) Designation of enforcement personnel; powers; issuance of arrest warrants; trial and sentencing by United States magistrates.

(1) For the purpose of enforcing subsection (a) of this section, the Secretary of the Interior and the Secretary of Agriculture may designate any employee of their respective departments, and any State officer or employee authorized under a cooperative agreement to enforce subsection (a) of this section, to (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view; (iv) search without warrant or process any person, place, or conveyance as provided by law; and (v) seize without warrant or process any evidentiary item as provided by law.

(2) Upon the sworn information by a competent person, any United States magistrate or court of competent jurisdiction may issue process for the arrest of any person charged with committing any offense under subsection (a) of this section.

(3) Any person charged with committing any offense under subsection (a) of this section may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401 of Title 18.

(c) Seizure and forfeiture of equipment and vessels.

All guns, traps, nets, and other equipment, vessels, vehicles, and other means of transportation used by any person when engaged in committing an offense under subsection (a) of this section shall be subject to forfeiture to the United States and may be seized and held pending the prosecution of any person arrested for committing such offense. Upon conviction for such offense, such forfeiture may be adjudicated as a penalty in addition to any other provided for committing such offense.

(d) Applicability of customs laws to seizures and forfeitures; exceptions.

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Department of the Treasury shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or the Secretary of Agriculture, as the case may be, or by such persons as he may designate. (Pub. L. 86–797, title II, § 204, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 670h, 670i of this title.

§ 670k. Definitions.

As used in this subchapter—

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "Chairman" means the Chairman of the Atomic Energy Commission.

(3) The term "off-road vehicle" means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other natural terrain; but such term does not include—

(A) any registered motorboat at the option of each State;

(B) any military, fire, emergency, or law enforcement vehicle when used for emergency purposes; and

(C) any vehicle the use of which is expressly authorized by the Secretary of the Interior or the Secretary of Agriculture under a permit, lease, license, or contract.

(4) The term "public land" means all lands, under the respective jurisdiction of the Secretary of the Interior, the Secretary of Agriculture, the Chairman, and the Administrator, except land which is, or hereafter may be, within or designated as—

(A) a military reservation;

(B) a unit of the National Park System;

(C) an area within the national wildlife refuge system;

(D) an Indian reservation; or

(E) an area within an Indian reservation or land held in trust by the United States for an Indian or Indian tribe.

(5) The term "State agency" means the agency or agencies of a State responsible for the administration of the fish and game laws of the State.

(6) The term "conservation and rehabilitation programs" means to utilize those methods and procedures which are necessary to protect, conserve, and enhance wildlife, fish, and game resources to the maximum extent practicable on public lands subject to this subchapter consistent with any overall land use and management plans for the lands involved. Such methods and procedures shall include, but shall not be limited to, all activities associated with scientific resources management such as protection, research, census, law enforcement, habitat management, propagation, live trapping and transplantation, and regulated taking in conformance with the provisions of this subchapter. Nothing in this term shall be construed as diminishing the authority or jurisdiction of the States with respect to the management of resident species of fish, wildlife, or game, except as otherwise provided by law.

(Pub. L. 86–797, title II, § 205, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1373.)

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development

Administration, with certain exceptions, by Pub. L. 93–438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

§ 670*l*. Applicability to Forest Service and Bureau of Land Management lands of public land management area stamp requirements; authorized fees.

Notwithstanding any other provision in this subchapter, section 670i of this title shall not apply to land which is, or hereafter may be, within or designated as Forest Service land or as Bureau of Land Management land of any State in which all Federal lands therein comprise 60 percent or more of the total area of such State; except that in any such State, any appropriate State agency may agree with the Secretary of Agriculture or the Secretary of the Interior, or both, as the case may be, to collect a fee as specified in such agreement at the point of sale of regular licenses to hunt, trap, or fish in such State, the proceeds of which shall be utilized in carrying out conservation and rehabilitation programs implemented under this subchapter in the State concerned and for no other purpose. (Pub. L. 86–797, title II, § 206, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

§ 670m. Indian rights unaffected; State or Federal jurisdiction regulating Indian rights preserved.

Nothing in this subchapter shall enlarge or diminish or in any way affect (1) the rights of Indians or Indian tribes to the use of water or natural resources or their rights to fish, trap, or hunt wildlife as secured by statute, agreement, treaty, Executive order, or court decree; or (2) existing State or Federal jurisdiction to regulate those rights either on or off reservations. (Pub. L. 86–797, title II, § 207, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

§ 670n. Joint Federal-State Land Use Planning Commission for Alaska jurisdiction, authority, etc., unaffected; submission of views by Commission.

Nothing in this chapter shall in any way affect the jurisdiction, authority, duties, or activities of the Joint Federal-State Land Use Planning Commission established pursuant to section 1616 of Title 43. During the development of any cooperative plan for Alaska which may be agreed to under subchapter I of this chapter after the effective date of this section and of any comprehensive program for Alaska under this subchapter, such Commission shall be given an opportunity to submit its comments on such plan or program. (Pub. L. 86–797, title II, § 208, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

REFERENCES IN TEXT

The effective date of this section, referred to in text, probably means the date of enactment of Pub. L. 93–452, which was approved Oct. 18, 1974.

§ 670o. Authorization of appropriations.

(a) There is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years thereafter to enable the Department of the Interior to carry out its functions and responsibilities under this subchapter.

(b) There is authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years thereafter to enable the Department of Agriculture to carry out its functions and responsibilities under this subchapter. (Pub. L. 86–797, title II, § 209, as added Pub. L. 93–452, § 2, Oct. 18, 1974, 88 Stat. 1374.)

Chapter 6.—GAME AND BIRD PRESERVES; PROTECTION

Sec.

698. Big Thicket National Preserve [New].
(a) Establishment.
(b) Location; boundaries; publication in Federal Register.
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698a. Same [New].
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(a) Improved property; election of right of use and occupancy; payment of fair market value; termination of right.
(b) Definitions.
(c) Waiver of right to relocation assistance by election of right of use and occupancy.
698c. Same [New].
(a) Administration; applicability of other laws.
(b) Limitation on construction of roads, campgrounds, etc.; rules and regulations for use of Federal lands and waters.
(c) Hunting, fishing, and trapping authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities.
698d. Same; preservation as wilderness; review of areas by Secretary; report to President; time [New].
698e. Same; authorization of appropriations [New].
698f. Big Cypress National Preserve [New].
(a) Establishment.
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(c) Acquisition of land; prerequisites to Federal appropriations; improved property; oil and gas rights; appraisal of property; transfer of Federal property to Secretary.
698g. Same [New].
(a) Expeditious acquisition of Florida lands.
(b) Submission of plan to Committee on Interior and Insular Affairs and Committees on Appropriations; time; contents.
(c) Time for completion of land acquisition program.
698h. Same [New].
(a) Improved property; election of right of use and occupancy; payment of fair market value; termination of right.
(b) Definitions.
(c) Waiver of right to relocation assistance by election of right of use and occupancy.
698i. Same; administration; applicability of other laws; rules and regulations for use of lands and waters; transportation facilities; consultation and cooperation with Secretary of Transportation [New].
698j. Same; hunting, fishing, and trapping authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities; land use and retention rights of Miccosukee and Seminole Indian Tribes [New].
698k. Same; contracts for providing visitor services; right of first refusal to Miccosukee and Seminole Tribes [New].
698*l*. Same; preservation of land as wilderness; review of area by Secretary; report to President; time [New].
698m. Same; authorization of appropriations [New].

§ 698. Big Thicket National Preserve.

(a) Establishment.

In order to assure the preservation, conservation, and protection of the natural, scenic, and recreational values of a significant portion of the Big Thicket area in the State of Texas and to provide for the enhancement and public enjoyment thereof, the Big Thicket National Preserve is hereby established.

(b) Location; boundaries; publication in Federal Register.

The Big Thicket National Preserve (hereafter referred to as the "preserve") shall include the units generally depicted on the map entitled "Big Thicket National Preserve", dated November 1973 and numbered NBR–BT 91,027 which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Tyler, Hardin, Jasper, Polk, Liberty, Jefferson, and Orange Counties in the State of Texas. The Secretary of the Interior (hereafter referred to as the "Secretary") shall, as soon as practicable, but no later than six months after October 11, 1974, publish a detailed description of the boundaries of the preserve in the Federal Register. In establishing such boundaries, the Secretary shall locate stream corridor unit boundaries referenced from the stream bank on each side thereof and he shall further make every reasonable effort to exclude from the units hereafter described any improved year-round residential properties which he determines, in his discretion, are not necessary for the protection of the values of the area or for its proper administration. The preserve shall consist of the following units:

Big Sandy Creek unit, Polk County, Texas, comprising approximately fourteen thousand three hundred acres;

Menard Creek Corridor unit, Polk, Hardin, and Liberty Counties, Texas, including a module at its confluence with the Trinity River, comprising approximately three thousand three hundred and fifty-nine acres;

Hickory Creek Savannah unit, Tyler County, Texas, comprising approximately six hundred and sixty-eight acres;

Turkey Creek unit, Tyler and Hardin Counties, Texas, comprising approxiamtely seven thousand eight hundred acres;

Beech Creek unit, Tyler County, Texas, comprising approximately four thousand eight hundred and fifty-six acres;

Upper Neches River corridor unit, Jasper, Tyler, and Hardin Counties, Texas, including the Sally Withers Addition, comprising approximately three thousand seven hundred and seventy-five acres;

Neches Bottom and Jack Gore Baygall unit, Hardin and Jasper Counties, Texas, comprising approximately thirteen thousand three hundred acres;

Lower Neches River corridor unit, Hardin, Jasper, and Orange Counties, Texas, except for a one-mile segment on the east side of the river including the site of the papermill near Evandale, comprising approximately two thousand six hundred acres;

Beaumont unit, Orange, Hardin, and Jefferson Counties, Texas, comprising approximately six thousand two hundred and eighteen acres;

Loblolly unit, Liberty County, Texas, comprising approximately five hundred and fifty acres;

Little Pine Island-Pine Island Bayou corridor unit, Hardin and Jefferson Counties, Texas, comprising approximately two thousand one hundred acres; and

Lance Rosier Unit, Hardin County, Texas, comprising approximately twenty-five thousand and twenty-four acres.

(c) Acquisition of land.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided*, That any lands owned or acquired by the State of Texas, or any of its political subdivisions, may be acquired by donation only. After notifying the Committees on Interior and Insular Affairs of the United States Congress, in writing, of his intention to do so and of the reasons therefor, the Secretary may, if he finds that such lands would make a significant contribution to the purposes for which the preserve was created, accept title to any lands, or interests in lands, located outside of the boundaries of the preserve which the State of Texas or its political subdivisions may acquire and offer to donate to the United States or which any private person, organization, or public or private corporation may offer to donate to the United States and he may administer such lands as a part of the preserve after publishing notice to that effect in the Federal Register. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of sections 698 to 698e of this title, without transfer of funds. (Pub. L. 93–439, § 1, Oct. 11, 1974, 88 Stat. 1254.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698a to 698c, 698e of this title.

§ 698a. Same.

(a) Mineral rights; easements; improved properties.

The Secretary shall, immediately after the publication of the boundaries of the preserve, commence negotiations for the acquisition of the lands located therein: *Provided*, That he shall not acquire the mineral estate in any property or existing easements for public utilities, pipelines or railroads without the consent of the owner unless, in his judgment, he first determines that such property or estate is subject to, or threatened with, uses which are, or would be, detrimental to the purposes and objectives of sections 698 to 698e of this title: *Provided further*, That the Secretary, insofar as is reasonably possible, may avoid the acquisition of improved properties, as defined in sections 698 to 698e of this title, and shall make every effort to minimize the acquisition of land where he finds it necessary to acquire properties containing improvements.

(b) Plan to Committee on Interior and Insular Affairs and Committees on Appropriations; time; contents.

Within one year after October 11, 1974, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve,

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) Completion of land acquisition program; time.

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 698 to 698e of this title within six years after October 11, 1974. (Pub. L. 93–439, § 2, Oct. 11, 1974, 88 Stat. 1256.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698, 698b, 698c, 698e of this title.

§ 698b. Same.

(a) Improved property; election of right of use and occupancy; payment of fair market value; termination of right.

The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use and occupancy of the improved property for noncommercial residential purposes for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 698 to 698e of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) Definitions.

As used in sections 698 to 698e of this title, the term "improved property" means a detached, one-family dwelling, construction of which was begun before July 1, 1973, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and together with such additional lands or interests therein as the Secretary deems to be reasonably necessary for access thereto, such lands being in the same ownership as the dwelling, together with any structures accessory to the dwelling which are situated on such land.

(c) Waiver of right to relocation assistance by election of right of use and occupancy.

Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of Title 42, and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 4601(6) of Title 42. (Pub. L. 93–439, § 3, Oct. 11, 1974, 88 Stat. 1256.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698, 698a, 698c, 698e of this title.

§ 698c. Same.

(a) Administration; applicability of other laws.

The area within the boundaries depicted on the map referred to in section 698 of this title shall be known as the Big Thicket National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of sections 698 to 698e of this title and with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented.

(b) Limitation on construction of roads, campgrounds, etc.; rules and regulations for use of Federal lands and waters.

In the interest of maintaining the ecological integrity of the preserve, the Secretary shall limit the construction of roads, vehicular campgrounds, employee housing, and other public use and administrative facilities and he shall promulgate and publish such rules and regulations in the Federal Register as he deems necessary and appropriate to limit and control the use of, and activities on, Federal lands and waters with respect to:

(1) motorized land and water vehicles;

(2) exploration for, and extraction of, oil, gas, and other minerals;

(3) new construction of any kind;

(4) grazing and agriculture; and

(5) such other uses as the Secretary determines must be limited or controlled in order to carry out the purposes of sections 698 to 698e of this title.

(c) Hunting, fishing, and trapping authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Texas, except that he may designate zones where and periods when, no hunting, fishing, trapping, or entry may be permitted for reasons of public safety,

administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing and trapping activities. (Pub. L. 93–439, § 4, Oct. 11, 1974, 88 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698 to 698b, 698e of this title.

§ 698d. Same; preservation as wilderness; review of area by Secretary; report to President; time.

Within five years from October 11, 1974, the Secretary shall review the area within the preserve and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the preserve for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title. (Pub. L. 93–439, § 5, Oct. 11, 1974, 88 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698 to 698c, 698e of this title.

§ 698e. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 698 to 698e of this title, but not to exceed $63,812,000 for the acquisition of lands and interests in lands and not to exceed $7,000,000 for development. (Pub. L. 93–439, § 6, Oct. 11, 1974, 88 Stat. 1257.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698 to 698c of this title.

§ 698f. Big Cypress National Preserve.

(a) Establishment.

In order to assure the preservation, conservation, and protection of the natural, scenic, hydrologic, floral and faunal, and recreational values of the Big Cypress Watershed in the State of Florida and to provide for the enhancement and public enjoyment thereof, the Big Cypress National Preserve is hereby established.

(b) Location; boundaries; publication in Federal Register; area.

The Big Cypress National Preserve (hereafter referred to as the "preserve") shall comprise the area generally depicted on the map entitled "Big Cypress National Preserve", dated November 1971 and numbered BC–91,001, which shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and shall be filed with appropriate offices of Collier, Monroe, and Dade Counties in the State of Florida. The Secretary of the Interior (hereafter referred to as the "Secretary") shall, as soon as practicable, publish a detailed description of the boundaries of the preserve in the Federal Register which shall include not more than five hundred and seventy thousand acres of land and water.

(c) Acquisition of land; prerequisites to Federal appropriations; improved property; oil and gas rights; appraisal of property; transfer of Federal property to Secretary.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal agency, or exchange, any lands, waters, or interests therein which are located within the boundaries of the preserve: *Provided,* That any lands owned or acquired by the State of Florida, or any of its subdivisions, may be acquired by donation only: *Provided further,* That no Federal funds shall be appropriated until the Governor of Florida executes an agreement on behalf of the State which (i) provides for the transfer to the United States of all lands within the preserve previously owned or acquired by the State and (ii) provides for the donation to the United States of all lands acquired by the State within the preserve pursuant to the provision of "the Big Cypress Conservation Act of 1973" (Chapter 73–131 of the Florida Statutes) or provides for the donation to the United States of any remaining moneys appropriated pursuant to such Act for the purchase of lands within the preserve. No improved property, as defined by sections 698f to 698m of this title, nor oil and gas rights, shall be acquired without the consent of the owner unless the Secretary, in his judgment, determines that such property is subject to, or threatened with, uses which are, or would be, detrimental to the purposes of the preserve. The Secretary may, if he determines that the acquisition of any other subsurface estate is not needed for the purposes of the preserve, exclude such interest in acquiring any lands within the preserve. Notwithstanding the provisions of section 4651 of Title 42 the Secretary (i) may evaluate any offer to sell land within the preserve by any landowner and may, in his discretion, accept any offer not in excess of $10,000 without an appraisal and (ii) may direct an appraisal to be made of any unimproved property within the preserve without notice to the owner or owners thereof. Notwithstanding any other provision of law, any federally owned lands within the preserve shall, with the concurrence of the head of the administering agency, be transferred to the administrative jurisdiction of the Secretary for the purposes of sections 698f to 698m of this title, without transfer of funds. (Pub. L. 93–440, § 1, Oct. 11, 1974, 88 Stat. 1258.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698g to 698j, 698m of this title.

§ 698g. Same.

(a) Expeditious acquisition of Florida lands.

In recognition of the efforts of the State of Florida in the preservation of the area, through the enactment of chapter 73–131 of the Florida statutes, "The Big Cypress Conservation Act of 1973", the Secretary is directed to proceed as expeditiously as possible to

acquire the lands and interests in lands necessary to achieve the purposes of sections 698f to 698m of this title.

(b) Submission of plan to Committee on Interior and Insular Affairs and Committees on Appropriations; time; contents.

Within one year after October 11, 1974, the Secretary shall submit, in writing, to the Committee on Interior and Insular Affairs and to the Committees on Appropriations of the United States Congress a detailed plan which shall indicate:

(i) the lands and areas which he deems essential to the protection and public enjoyment of this preserve.

(ii) the lands which he has previously acquired by purchase, donation, exchange or transfer for administration for the purpose of this preserve, and

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing five fiscal years.

(c) Time for completion of land acquisition program.

It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated by sections 698f to 698m of this title within six years after October 11, 1974. (Pub. L. 93–440, § 2, Oct. 11, 1974, 88 Stat. 1259.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f, 698h to 698j, 698m of this title.

§ 698h. Same.

(a) Improved property; election of right of use and occupancy; payment of fair market value; termination of right.

The owner of an improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for himself and his heirs and assigns a right of use of and occupancy of the improved property for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless this property is wholly or partially donated to the United States, the Secretary shall pay the owner the fair market value of the property on the date of acquisition less the fair market value, on that date, of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of sections 698f to 698m of this title, which shall include the exercise of such right in violation of any applicable State or local laws and ordinances, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him an amount equal to the fair market value of that portion of the right which remains unexpired.

(b) Definitions.

As used in sections 698f to 698m of this title, the term "improved property" means:

(i) a detached one family dwelling, construction of which was begun before November 23, 1971, which is used for noncommercial residential purposes, together with not to exceed three acres of land on which the dwelling is situated and such additional lands as the Secretary deems reasonably necessary for access thereto, such land being in the same ownership as the dwelling, and together with any structures accessory to the dwelling which are situated on such lands and

(ii) any other building, construction of which was begun before November 23, 1971, which was constructed and is used in accordance with all applicable State and local laws and ordinances, together with as much of the land on which the building is situated, such land being in the same ownership as the building, as the Secretary shall designate to be reasonably necessary for the continued enjoyment and use of the building in the same manner and to the same extent as existed in November 23, 1971, together with any structures accessory to the building which are situated on the lands so designated. In making such designation the Secretary shall take into account the manner of use in which the building, accessory structures, and lands were customarily enjoyed prior to November 23, 1971.

(c) Waiver of right to relocation assistance by election of right of use and occupancy.

Whenever an owner of property elects to retain a right of use and occupancy as provided in this section, such owner shall be deemed to have waived any benefits or rights accruing under sections 4623, 4624, 4625, and 4626 of Title 42, and for the purposes of such sections such owner shall not be considered a displaced person as defined in section 4601(6) of Title 42. (Pub. L. 93–440, § 3, Oct. 11, 1974, 88 Stat. 1259.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f, 698g, 698i, 698j, 698m of this title.

§ 698i. Same; administration; applicability of other laws; rules and regulations for use of lands and waters; transportation facilities; consultation and cooperation with Secretary of Transportation.

(a) The area within the boundaries depicted on the map referred to in section 698f of this title shall be known as the Big Cypress National Preserve. Such lands shall be administered by the Secretary as a unit of the National Park System in a manner which will assure their natural and ecological integrity in perpetuity in accordance with the provisions of sections 698f to 698m of this title and with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented.

(b) In administering the preserve, the Secretary shall develop and publish in the Federal Register such rules and regulations as he deems necessary and appropriate to limit or control the use of Federal lands and waters with respect to:

(1) motorized vehicles,

(2) exploration for and extraction of oil, gas, and other minerals,

(3) grazing,

(4) draining or constructing of works or structures which alter the natural water courses,

(5) agriculture,

(6) hunting, fishing, and trapping,

(7) new construction of any kind, and

(8) such other uses as the Secretary determines

must be limited or controlled in order to carry out the purposes of sections 698f to 698m of this title: *Provided*, That the Secretary shall consult and cooperate with the Secretary of Transportation to assure that necessary transportation facilities shall be located within existing or reasonably expanded rights-of-way and constructed within the reserve in a manner consistent with the purposes of sections 698f to 698m of this title.

(Pub. L. 93–440, § 4, Oct. 11, 1974, 88 Stat. 1260.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f to 698h, 698j, 698m of this title.

§ 698j. Same; hunting, fishing, and trapping authorized in accordance with applicable Federal and State laws; consultation with appropriate State agency prior to implementation of regulations restricting activities; land use and retention rights of Miccosukee and Seminole Indian Tribes.

The Secretary shall permit hunting, fishing, and trapping on lands and waters under his jurisdiction within the preserve in accordance with the applicable laws of the United States and the State of Florida, except that he may designate zones where and periods when no hunting, fishing, trapping, or entry may be permitted for reasons of public safety, administration, floral and faunal protection and management, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting, fishing, or trapping shall be put into effect only after consultation with the appropriate State agency having jurisdiction over hunting, fishing, and trapping activities. Notwithstanding this section or any other provision of sections 698f to 698m of this title, members of the Miccosukee Tribe of Indians of Florida and members of the Seminole Tribe of Florida shall be permitted, subject to reasonable regulations established by the Secretary, to continue their usual and customary use and occupancy of Federal or federally acquired lands and waters within the preserve, including hunting, fishing, and trapping on a subsistence basis and traditional tribal ceremonials. (Pub. L. 93–440, § 5, Oct. 11, 1974, 88 Stat. 1260.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f to 698i, 698m of this title.

§ 698k. Same; contracts for providing visitor services; right of first refusal to Miccosukee and Seminole Tribes.

Notwithstanding any other provision of law, before entering into any contract for the provision of revenue producing visitor services,

(i) the Secretary shall offer those members of the Miccosukee and Seminole Indian Tribes who, on January 1, 1972, were engaged in the provision of similar services, a right of first refusal to continue providing such services within the preserve subject to such terms and conditions as he may deem appropriate, and

(ii) before entering into any contract or agreement to provide new revenue-producing visitor services within the preserve, the Secretary shall offer to the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida the right of first refusal to provide such services, the right to be open for a period of ninety days. Should both Tribes respond with proposals that satisfy the terms and conditions established by the Secretary, the Secretary may allow the Tribes an additional period of ninety days in which to enter into an inter-Tribal cooperative agreement to provide such visitor services, but if neither tribe responds with proposals that satisfy the terms and conditions established by the Secretary, then the Secretary shall provide such visitor services in accordance with the Act of October 9, 1965. No such agreement may be assigned or otherwise transferred without the consent of the Secretary.

(Pub. L. 93–440, § 6, Oct. 11, 1974, 88 Stat. 1260.)

REFERENCES IN TEXT

The Act of October 9, 1965, referred to in subpar. (ii) is Pub. L. 89–249, Oct. 9, 1965, 79 Stat. 969, which enacted sections 20 to 20g of this title, and amended section 462 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f to 698j, 698m of this title.

§ 698*l*. Same; preservation of land as wilderness; review of area by Secretary; report to President; time.

Within five years from October 11, 1974, the Secretary shall review the area within the preserve and shall report to the President, in accordance with section 1132(c) and (d) of this title, his recommendations as to the suitability or nonsuitability of any area within the preserve for preservation as wilderness, and any designation of any such areas as a wilderness shall be accomplished in accordance with section 1132(c) and (d) of this title. (Pub. L. 93–440, § 7, Oct. 11, 1974, 88 Stat. 1261.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f to 698j, 698m of this title.

§ 698m. Same; authorization of appropriations.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 698f to 698m of this title, but not to exceed $116,000,000 for the acquisition of lands and interests in lands and not to exceed $900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73–131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve. (Pub. L. 93–440, § 8, Oct. 11, 1974, 88 Stat. 1261.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 698f to 698j of this title.

Chapter 7.—PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

MIGRATORY BIRD TREATY

SECTIONS REFERRED TO IN OTHER SECTIONS

Section 703 et seq. is referred to in section 715s of this title.

§ 703. Taking, killing, or possessing migratory birds unlawful.

Unless and except as permitted by regulations made as hereinafter provided in sections 702 to 711 of this title, it shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess, offer for sale, sell, offer to barter, barter, offer to purchase, purchase, deliver for shipment, ship, export, import, cause to be shipped, exported, or imported, deliver for transportation, transport or cause to be transported, carry or cause to be carried, or receive for shipment, transportation, carriage, or export, any migratory bird, any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof, included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, and the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972. (As amended June 1, 1974, Pub. L. 93–300, § 1, 88 Stat. 190.)

AMENDMENTS

1974—Pub. L. 93–300 substituted "any part, nest, or eggs of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof" for "any part, nest, or egg of any such birds", and included the convention between the United States and the Government of Japan concluded March 4, 1972.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–300 provided that: "The amendments made by this Act [to this section] shall take effect on the date on which the President proclaims the exchange of ratifications of the convention between the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment, concluded March 4, 1972, or on the date of the enactment of this Act [June 1, 1974], whichever date is later."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459a–1, 668d, 704, 706, 707, 708, 709a, 710, 711, 718, 718f of this title.

MIGRATORY BIRD CONSERVATION

SECTIONS REFERRED TO IN OTHER SECTIONS

Section 715 et seq. is referred to in sections 668dd, 715s, 1534 of this title.

§ 715i. Administration.

(a) Treaty obligations; rules and regulations.

Areas of lands, waters, or interests therein acquired or reserved pursuant to sections 715 to 715d, 715e, 715f to 715k and 715n to 715r of this title shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by him to conserve and protect migratory birds in accordance with treaty obligations with Mexico and Canada, and other species of wildlife found thereon, including species that are listed pursuant to section 1533 of this title as endangered species or threatened species, and to restore or develop adequate wildlife habitat.

* * * * *

(As amended Dec. 28, 1973, Pub. L. 93–205, § 13(b), 87 Stat. 902.)

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–205 substituted "listed pursuant to section 1533 of this title as endangered species or threatened species," for "threatened with extinction,".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 691d, 695b, 715, 715a, 715c, 715d, 715e, 715f, 715g, 715h, 715j, 715k, 715n, 715o, 715p, 715r, 718 of this title.

§ 715s. Participation of States in revenues from National Wildlife Refuge System.

(a) Separate fund in the United States Treasury; availability of funds until expended; definition of "National Wildlife Refuge System".

Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter referred to as the "system") includes those lands and waters administered by the Secretary as wildlife refuges, lands acquired or reserved for the protection and conservation of fish and wildlife that are listed pursuant to section 1533 of this title as endangered species or threatened species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

* * * * *

(e) Use and transfer of surplus funds.

Any moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the provisions of the Migratory Bird

Conservation Act; except that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished by the amendments made to this subsection by the National Wildlife Refuge System Administration Act Amendments of 1974, unless by specific Act of Congress.

* * * * *

(As amended Dec. 28, 1973, Pub. L. 93–205, § 13(b), 87 Stat. 902; Dec. 3, 1974, Pub. L. 93–509, § 4, 88 Stat. 1603.)

REFERENCES IN TEXT

The Migratory Bird Conservation Act, referred to in subsec. (e), is classified to section 715 et seq. of this title.

The Migratory Bird Treaty Act, referred to in subsec. (e), is classified to section 703 et seq. of this title.

The amendments made to this subsection by the National Wildlife Refuge System Administration Act Amendments of 1974, referred to in subsec. (e), refer to the amendment of subsec. (e) by Pub. L. 93–509.

AMENDMENTS

1974—Subsec. (e). Pub. L. 93–509 substituted provisions that moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the Migratory Bird Conservation Act with exception that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished for provisions that moneys remaining in the fund after all payments are made for any fiscal year may be used by the Secretary thereafter for management of the System, including but not limited to the construction, improvement, repair, and alteration of buildings, roads, and other facilities, and for enforcement of the Migratory Bird Treaty Act.

1973—Subsec. (a). Pub. L. 93–205 substituted "listed pursuant to section 1533 of this title as endangered species or threatened species," for "threatened with extinction,".

EFFECTIVE DATE OF 1973 AMENDMENT.

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 715k–1, 1535 of this title.

HUNTING STAMP TAX

SECTIONS REFERRED TO IN OTHER SECTIONS

Section 718 et seq. is referred to in section 668dd of this title.

§ 718a. Hunting stamp for taking migratory waterfowl.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 670i of this title.

§ 718b. Issuance and sale of stamps; fees; validity; expiration; redemption; definition of retail dealer.

The stamps required by section 718a of this title shall be issued and sold by the Postal Service under regulations prescribed by the Postal Service: *Provided*, That the stamps shall be sold at all post offices of the first- and second-class and at such others as the Postal Service shall direct. For each such stamp sold under the provisions of this section there shall be collected by the Postal Service a sum of not less than $3 and not more than $5 as determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds. No such stamp shall be valid under any circumstances to authorize the taking of migratory waterfowl except in compliance with Federal and State laws and regulations and then only when the person so taking such waterfowl shall himself have written his signature in ink across the face of the stamp prior to such taking. Such stamps shall be usable as migratory-bird hunting stamps only during the fiscal year for which issued. The Postal Service, pursuant to regulations to be prescribed by it, shall provide for the redemption, on or before the thirtieth day of June of each fiscal year, of blocks composed of two or more attached unused stamps issued for such year that were sold on consignment to retail dealers for resale to their customers and that have not been resold by such dealers. As used in this section, the term "retail dealers" means persons regularly engaged in the business of retailing hunting or fishing equipment, and persons duly authorized to act as agents of a State or political subdivision thereof for the sale of State or county hunting or fishing licenses. (Mar. 16, 1934, ch. 71, § 2, 48 Stat. 451; June 15, 1935, ch. 261, title I, § 2, 49 Stat. 379; Aug. 12, 1949, ch. 421, § 1, 63 Stat. 599; July 30, 1956, ch. 782, §§ 2, 3(b), 70 Stat. 722; Aug. 1, 1958, Pub. L. 85–585, § 1, 72 Stat. 486; Dec. 22, 1971, Pub. L. 92–214, §§ 1, 2, 85 Stat. 777.)

AMENDMENTS

1971—Pub. L. 92–214 substituted "Postal Service" for "Post Office Department" and "Postmaster General" and added provisions authorizing the collection of up to $5 for each stamp sold to be determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds.

1958—Pub. L. 85–585 increased cost of stamp from $2 to $3.

1956—Act July 30, 1956, § 2, struck out in existing next to last sentence requirement that stamps remaining unsold by the Post Office Department subsequent to becoming void after the 30th day of June next succeeding issuance be destroyed, substituted provisions in existing last sentence relating to redemption of blocks of unused stamps sold on consignment to retail dealers for resale to their customers, for provisions prohibiting the redemption by the Department in cash or kind of stamps sold under this Act, and added sentence defining "retail dealers". For further amendment of next to last sentence of this section, see section 3(b) of act July 30, 1956, set out below.

Act July 30, 1956, § 3(b), substituted provisions in fourth sentence authorizing use as migratory-bird stamps only during fiscal year for which issued, for provisions requiring stamps to expire and be void after the 30th day of June next succeeding issuance. Amendment of fourth sentence by section 3(b) further amends amendments made to next to last sentence by section 2 of act July 30, 1956, as set out above.

1949—Act Aug. 12, 1949, increased cost of stamp from $1 to $2.

1935—Act June 15, 1935, amended section generally.

EFFECTIVE DATE OF 1958 AMENDMENT

Section 4 of Pub. L. 85–585 provided that: "The amendment made by the first section of this Act [to this section] shall become effective on July 1, 1959. The amendment made by section 2 of this Act [amending section 718d (a) (b) of this title] making available the net proceeds of all moneys received in the migratory bird conservation fund for the location, ascertainment, and acquisition of Waterfowl Production Areas and suitable areas for migratory bird refuges shall become effective on July 1, 1960. The remaining amendments made by this Act [adding section 718d (c) and amending section 718d (a), (b) of this title] shall become effective on the date of the enactment of this Act [Aug. 1, 1958]. Any unobligated balance remaining in the migratory bird conservation fund on June 30, 1960, shall thereafter be

available for expenditure only for the purposes specified in the Migratory Bird Hunting Stamp Act of March 16, 1934 [section 718—718b, and 718c—718h of this title], as amended by this Act."

SPENDING OF STAMP MONEY

Section 1 of act Aug. 12, 1949, provided in part: *"Provided,* That the moneys derived from the sale of such stamps shall be spent only upon specific appropriation by the Congress."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 718, 718a, 718c, 718e, 718f, 718g, 718h of this title.

§ 718b–1. Disposition of unsold stamps; collectors' supply; destruction of surplus.

On or after July 30, 1956, such quantity of migratory-bird hunting stamps, not sold at the end of the fiscal year for which issued, as determined by the Postal Service to be (1) required to supply the market for sale to collectors, and (2) in suitable condition for such sale to collectors, shall be turned over to the Philatelic Agency and therein placed on sale. Any surplus stock of such migratory-bird hunting stamps may be destroyed in such manner as the Postal Service shall direct. (As amended Dec. 22, 1971, Pub. L. 92–214, § 3, 85 Stat. 777.)

AMENDMENTS

1971—Pub. L. 92–214 substituted "Postal Service" for "Postmaster General".

§ 718d. Disposition of receipts from sale of stamps.

All moneys received for such stamps shall be accounted for by the Postal Service and paid into the Treasury of the United States, and shall be reserved and set aside as a special fund to be known as the migratory bird conservation fund, to be administered by the Secretary of the Interior. All moneys received into such fund are appropriated for the following objects and shall be available therefor until expended:

(a) Advance allotments to Postal Service.

So much as may be necessary shall be used by the Secretary of the Interior to make advance allotments to the Postal Service at such times and in such amounts as may be mutually agreed upon by the Secretary of the Interior and the Postal Service for direct expenditure by the Postal Service for engraving, printing, issuing, selling, and accounting for migratory bird hunting stamps and moneys received from the sale thereof, in addition to expenses for personal services in the District of Columbia and elsewhere, and such other expenses as may be necessary in executing the duties and functions required of the Postal Service.

* * * * *

(As amended Dec. 22, 1971, Pub. L. 92–214, § 2, 85 Stat. 777.)

AMENDMENTS

1971—Pub. L. 92–214 substituted "Postal Service" for "Post Office Department" in the introductory provisions and "Postal Service" for "Post Office Department" and "Postmaster General" in subsec. (a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 715k–4, 718, 718a, 718c, 718e, 718f, 718g, 718h of this title; title 25 section 564w–1.

Chapter 9.—FISH AND WILDLIFE SERVICE

Sec.

742j–1. Airborne hunting [New].
(a) Prohibition; penalty.
(b) Exception; report of State to Secretary.
(c) "Aircraft" defined.
(d) Enforcement; regulations; arrest; search; issuance and execution of warrants and process; cooperative agreements.
(e) Forfeiture.
(f) Certain customs laws applied.
743a. Detail of personnel and loan of equipment of the Director of the Bureau of Sport Fisheries and Wildlife; reports to Congress [New].

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 668bb, 1534 of this title.

§ 742a. Declaration of policy.

SECTION REFFERED TO IN OTHER SECTIONS

This section is referred to in section 742b of this title.

§ 742b. United States Fish and Wildlife Service.

(a) Assistant Secretary for Fish and Wildlife.

There is established within the Department of the Interior the position of Assistant Secretary for Fish and Wildlife. Such Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the same rate as other Assistant Secretaries.

(b) Establishment; Director of United States Fish and Wildlife Service; appointment; qualifications.

There is established within the Department of the Interior the United States Fish and Wildlife Service. The functions of the United States Fish and Wildlife Service shall be administered under the supervision of the Director, who shall be subject to the supervision of the Assistant Secretary for Fish and Wildlife. The Director of the United States Fish and Wildlife Service shall be appointed by the President, by and with the advice and consent of the Senate. No individual may be appointed as the Director unless he is, by reason of scientific education and experience, knowledgeable in the principles of fisheries and wildlife management.

(c) Succession to United States Fish and Wildlife Service and Bureau of Sport Fisheries and Wildlife.

The United States Fish and Wildlife Service established by subsection (b) of this section shall succeed to and replace the United States Fish and Wildlife Service (as constituted on June 30, 1974) and the Bureau of Sport Fisheries and Wildlife (as constituted on such date). All laws and regulations in effect on June 30, 1974, which relate to matters administered by the Department of the Interior through the United States Fish and Wildlife Service (as constituted on such date) and the Bureau of Sport Fisheries and Wildlife (as constituted on such date) shall remain in effect.

(d) Functions and responsibilities of Secretary of Interior.

All functions and responsibilities placed in the Department of the Interior or any official thereof by sections 742a to 742d and 742e to 742j of this title shall be included among the functions and responsibilities of the Secretary of the Interior, as the head of the Department, and shall be carried out under

his direction pursuant to such procedures or delegations of authority as he may deem advisable and in the public interest. (As amended Apr. 22, 1974, Pub. L. 93–271, §1, 88 Stat. 92.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–271, § 1(1), (2), struck out provisions relating to the establishment of the position of and the appointment of the Commissioner of Fish and Wildlife. Provisions for the establishment of the United States Fish and Wildlife Service within the Department of the Interior, consisting of the Bureau of Commercial Fisheries and the Bureau of Sport Fisheries and Wildlife, the appointment of a Director for each of the Bureaus, and the succession of the United States Fish and Wildlife Service to the Fish and Wildlife Service of the Department, were also struck out.

Subsec. (b). Pub. L. 93–271, § 1(3), substituted provisions for the establishment of the United States Fish and Wildlife Service within the Department of the Interior, for its administration by a Director subject to the supervision of the Assistant Secretary for Fish and Wildlife, the qualifications for and the appointment of the Director, for provisions relating to the administration of the United States Fish and Wildlife Service by the Commissioner of Fish and Wildlife subject to the supervision of the Assistant Secretary for Fish and Wildlife.

Subsec. (c). Pub. L. 93–271, § 1(3), added subsec. (c). Former subsec. (c) designated subsec. (d).

Subsec. (d). Pub. L. 93–271, § 1 (3), redesignated former subsec. (c) as (d). Former subsec. (d) relating to the distribution of functions, powers, and duties of former Fish and Wildlife Service was struck out.

Subsec. (e). Pub. L. 93–271, § 1 (3), struck out subsec. (e) relating to the continuation of all laws, rules and regulations administered by the former Fish and Wildlife Service.

Subsec. (f). Pub. L. 93–271, § 1(3), struck out subsec. (f) which provided for administrative authority in the Secretary of the Interior to carry out the provisions of sections 742a to 742d and 742e to 742j of this title, and for effective procedure for reorganization.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93–271 provided that: "The amendments made by this Act [amending this section and section 5316 of Title 5] shall take effect on July 1, 1974."

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the note under this section in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 742a, 742e, 742h, 742l, 742j of this title.

§§ 742c to 742d, 742e to 742i.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the notes under these sections in the 1970 ed. of the Code, is Oct, 3, 1970, and not Oct. 30, 1970, as shown therein.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 742b of this title.

§ 742j. Appropriations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 742b of this title.

§ 742j–1. Airborne hunting.

(a) Prohibition; penalty.

Any person who—

(1) while airborne in an aircraft shoots or attempts to shoot for the purpose of capturing or killing any bird, fish, or other animal; or

(2) uses an aircraft to harass any bird, fish, or other animal; or

(3) knowingly participates in using an aircraft for any purpose referred to in paragraph (1) or (2);

shall be fined not more than $5,000 or imprisoned not more than one year, or both.

(b) Exception; report of State to Secretary.

(1) This section shall not apply to any person if such person is employed by, or is an authorized agent of or is operating under a license or permit of, any State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, and each such person so operating under a license or permit shall report to the applicable issuing authority each calendar quarter the number and type of animals so taken.

(2) In any case in which a State, or any agency thereof, issues a permit referred to in paragraph (1) of this subsection, it shall file with the Secretary of the Interior an annual report containing such information as the Secretary shall prescribe, including but not limited to—

(A) the name and address of each person to whom a permit was issued;

(B) a description of the animals authorized to be taken thereunder, the number of animals authorized to be taken, and a description of the area from which the animals are authorized to be taken;

(C) the number and type of animals taken by such person to whom a permit was issued; and

(D) the reason for issuing the permit.

(c) "Aircraft" defined.

As used in this section, the term "aircraft" means any contrivance used for flight in the air.

(d) Enforcement; regulations; arrest; search; issuance and execution of warrants and process; cooperative agreements.

The Secretary of the Interior shall enforce the provisions of this section and shall promulgate such regulations as he deems necessary and appropriate to carry out such enforcement. Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this section may, without warrant, arrest any person committing in his presence or view a violation of this section or of any regulation issued hereunder and take such person immediately for examination or trial before an officer or court of competent jurisdiction; may execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this section; and may, with or without a warrant, as authorized by law, search any place. The Secretary of the Interior is authorized to enter into cooperative agreements with State fish and wildlife agencies or other appropriate State authorities to facilitate enforcement of this section, and by such agreements to delegate such enforcement authority to State law enforcement personnel as he deems appropriate for effective enforcement of this section. Any judge of any court established under the laws of the United States, and any United States magistrate may, within his respective jurisdiction, upon proper oath or

affirmation showing probable cause, issue warrants in all such cases.

(e) Forfeiture.

All birds, fish, or other animals shot or captured contrary to the provisions of this section, or of any regulation issued hereunder, and all guns, aircraft, and other equipment used to aid in the shooting, attempting to shoot, capturing, or harassing of any bird, fish, or other animal in violation of this section or of any regulation issued hereunder shall be subject to forfeiture to the United States.

(f) Certain customs laws applied.

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as such provisions of law are applicable and not inconsistent with the provisions of this section; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this section, be exercised or performed by the Secretary of the Interior or by such persons as he may designate. (Aug. 8, 1956, ch. 1036, § 13, as added Nov. 18, 1971, Pub. L. 92–159, § 1, 85 Stat. 480, and amended Oct. 18, 1972, Pub. L. 92–502, 86 Stat. 905.)

AMENDMENTS

1972—Subsecs. (d)–(f). Pub. L. 92–502 added subsecs. (d)–(f).

EFFECTIVE DATE

Section 3 of Pub. L. 92–159 provided that "The amendments made by the first section of this Act [enacting this section] shall take effect as of the thirtieth day after the date of enactment of such section [Nov. 18, 1971]; except that, in any case in which a State is not authorized to issue any permit referred to in the amendments made by such first section, such amendments shall take effect in any such State as of the thirtieth day after the expiration of the next regular session of the legislature of such State which begins on or after the date of enactment of this Act [Nov. 18, 1971]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 49 section 1429.

§ 743. Repealed. Pub. L. 93–280, § 1(2), May 10, 1974, 88 Stat. 123.

Section, act Mar. 3, 1885, ch. 360, § 1(1), 23 Stat. 494, Stat. 123, was part of a paragraph entitled: "Propagation of Food Fishes" in the Sundry Civil Expenses Appropriation Act, 1886. It authorized the Secretary of the Treasury to detail Coast Guard personnel to the Fish and Wildlife Services for duty. See section 743a of this title.

§ 743a. Detail of personnel and loan of equipment to the Director of the Bureau of Sport Fisheries and Wildlife; reports to Congress.

(A) As used in this section, the term "agency" means the department in which the Coast Guard is operating, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Atomic Energy Commission, and the National Aeronautics and Space Administration.

(B) The chief executive officer of each agency may from time to time—

(i) detail from the agency for duty under the Director of the Bureau of Sport Fisheries and Wildlife, Department of the Interior, such commissioned and enlisted personnel and civilian employees as may be spared for such duty; and

(ii) consonant with the operational needs of the agency, loan equipment of the agency to the Director.

(C) The Director of the Bureau of Sport Fisheries and Wildlife shall make an annual report at the end of each fiscal year to the Congress concerning the utilization of the provisions of this section and the additional cost, if any, to the Federal Government resulting therefrom. Such annual report shall be referred in the Senate to the Committee on Commerce and in the House of Representatives to the Committee on Merchant Marine and Fisheries. (Mar. 3, 1885, ch. 360, § 1(2), as added May 10, 1974, Pub. L. 93–280, § 1(3), 88 Stat. 124.)

REFERENCES IN TEXT

The Bureau of Sport Fisheries and Wildlife, referred to in text, was replaced and succeeded by the United States Fish and Wildlife Service. See section 742b(c) of this title.

§§ 744, 746, 748, 750, 754.

TRANSFER OF FUNCTIONS

The effective date of Reorg. Plan No. 4 of 1970, referred to in the notes under these sections in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 9A.—PRESERVATION OF FISHERY RESOURCES

§ 757a. Anadromous and Great Lakes fisheries.

* * * * *

(c) Increase of Federal share.

Whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary under subsection (a) of this section to carry out a research and development program to conserve, develop, and enhance anadromous fishery resources of the Nation, or fish in the Great Lakes that ascend streams to spawn, the Federal share of the program costs shall be increased to a maximum of 66⅔ per centum. Structures, devices, or other facilities, including fish hatcheries, constructed by such States under a cooperative agreement described in this subsection shall be operated and maintained without cost to the Federal Government. For the purpose of this subsection, the term "basin" includes rivers and their tributaries, lakes, and other bodies of water or portions thereof. (As amended Pub. L. 93–362, § 3(a), July 30, 1974, 88 Stat. 398.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–362 substituted "66⅔ per centum" for "60 per centum".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 757b, 757c, 757d, 757e, 757f of this title.

§ 757b. Same; investigations, surveys, and research; stream clearance activities; conservation devices and structures; fish hatcheries; studies, recommendations, and reports to States, Congress, and Federal water resources construction agencies; water resources projects; property: acquisition, exchanges, cash equalization payments, donations, administration, and title.

The Secretary, in accordance with any agreements entered into pursuant to section 757a(a) of

this title, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance activities; (3) to construct, install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish, and for the control of the sea lamprey; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of sections 757a to 757f of this title; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That sections 757a to 757f of this title shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Seretary[1] to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under sections 757a to 757f of this title and subject to the cost-sharing and appropriations provisions of sections 757a to 757f of this title; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of sections 757a to 757f of this title. Title to lands or interests therein acquired pursuant to sections 757a to 757f of this title shall be in the United States. (As amended Pub. L. 93–362, § 1, July 30, 1974, 88 Stat. 398.)

AMENDMENTS

1974—Cl. (3). Pub. L. 93–362 inserted reference to the control of the sea lamprey.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 757a, 757c, 757d, 757e, 757f of this title.

§ 757d. Same.

(a) Authorization of appropriations.

There is authorized to be appropriated for the period ending on June 30, 1970, not to exceed $25,000,000 to carry out the purposes of sections 757a to 757f of this title. There is authorized to be appropriated to carry out sections 757a to 757f of this title, not to exceed $6,000,000 for the fiscal year ending June 30, 1971, not to exceed $7,500,000 for the fiscal year ending June 30, 1972, not to exceed $8,500,000 for the fiscal year ending June 30, 1973, and not to exceed $20,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979. Sums appropriated under this subsection are authorized to remain available until expended.

* * * * *

(As amended Pub. L. 93–362, §§ 2, 3(b), July 30, 1974, 88 Stat. 398.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–362 substituted "$20,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, June 30, 1977, June 30, 1978, and June 30, 1979" for "$10,000,000 for the fiscal year ending June 30, 1974".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 757a, 757b, 757c, 757e, 757f of this title.

§ 758a. Same; conduct of explorations and related work.

CENTRAL, WESTERN, AND SOUTH PACIFIC OCEAN FISHERIES RESOURCES DEVELOPMENT PROGRAM

Pub. L. 92–444, Sept. 29, 1972, 86 Stat. 744, provided:

"[SEC. 1. SHORT TITLE]. That this Act may be cited as the 'Central, Western, and South Pacific Fisheries Development Act.'

"SEC. 2. [AUTHORIZATION OF SECRETARY: TUNA AND OTHER FISHERIES RESOURCES DEVELOPMENT PROGRAM; EXPLORATION, ECONOMIC DEVELOPMENT, ETC.]. The Secretary of Commerce (hereafter referred to in this Act as the 'Secretary') is authorized to carry out, directly or by contract, a three-year program for the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean. The program shall include, but not be limited to, exploration for, and stock assessment of, tuna and other fish; improvement of harvesting techniques; gear development; biological resource monitoring; and an economic evaluation of the potential for tuna and other fisheries in such area.

"SEC. 3. [CONSULTATION AND COOPERATION OF SECRETARY WITH CERTAIN GOVERNMENTS]. In carrying out the purposes of this Act, the Secretary shall consult, and may otherwise cooperate, with the Secretary of the Interior, the State of Hawaii and other affected States, the governments of American Samoa and Guam, the Office of the High Commissioner of the Trust Territory of the Pacific Islands, educational institutions, and the commercial fishing industry.

"SEC. 4. [REPORT TO PRESIDENT AND CONGRESS]. The Secretary shall submit to the President and the Congress, not later than June 30, 1976, a complete report with respect to his activities pursuant to this Act, the results of such activities, and any recommendations he may have as a result of such activities.

"SEC. 5. [REGULATIONS; CONTRACT TERMS AND CONDITIONS]. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act. Any contract entered into pursuant to section 2 of this Act shall be subject to such terms and conditions as the Secretary deems necessary and appropriate to protect the interests of the United States.

"SEC. 6. [CENTRAL, WESTERN, AND SOUTH PACIFIC AREA]. As used in this Act, the term 'Central, Western, and South Pacific Ocean' means that area of the Pacific Ocean between latitudes 30 degrees north to 30 degrees south and from longitudes 120 degrees east to 130 degrees west.

"SEC. 7. [AUTHORIZATION OF APPROPRIATIONS]. There is authorized to be appropriated for the period beginning July 1, 1973, and ending June 30, 1976, the sum of

[1] So in original.

$3,000,000 to carry out the purposes of this Act. Sums appropriated pursuant to this section shall remain available until expended."

§§ 760e, 760f.

REORG. PLAN NO. 4 OF 1970

The effective date of Reorg. Plan No. 4 of 1970, set out in the credits to these sections in the 1970 ed. of the Code, is Oct. 3, 1970, and not Oct. 30, 1970, as shown therein.

Chapter 10A.—SOCKEYE OR PINK SALMON FISHING

§ 776f. Appropriations.

(a) There is authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums, from time to time, as may be necessary to enable the Commission and agencies of the Federal Government to carry out the provisions of the convention and of this chapter, including purchase, operation, maintenance, and repair of aircraft, motor vehicles (including passenger-carrying vehicles), boats, research vessels, and other necessary facilities; and printing.

(b) In addition to the amounts authorized in subsection (a) of this section, there is authorized to be appropriated the sum of $7,000,000 for the share of the United States of costs and expenses incident to the development and construction of salmon enhancement facilities pursuant to the program for the restoration and extension of the sockeye and pink salmon stocks of the Fraser River system as approved by the Commission, to remain available until expended. (As amended Oct. 18, 1972, Pub. L. 92–504, 86 Stat. 907.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92–504 designated existing provisions as subsec. (a) and added subsec. (b).

Chapter 10D.—STATE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT PROJECTS

§ 779b. Authorization of appropriations.

(a) There is authorized to be appropriated to the Secretary of Commerce for the fiscal year beginning July 1, 1973, and for the four succeeding fiscal years, $5,000,000 in each year for apportionment to the States to carry out the purposes of this chapter.

(b) In addition to the amounts authorized in subsection (a) of this section there is authorized to be appropriated for the fiscal year beginning July 1, 1973, and for the four succeeding fiscal years. $1,500,000 in each such year, which shall be made available to the States in such amounts as the Secretary may determine appropriate for the purposes of this chapter: *Provided,* That the Secretary shall give a preference to those States in which he determines there is a commercial fishery failure due to a resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such failure or to prevent a similar failure in the future: *Provided further,* That the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels. Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) In addition to the funds authorized in subsections (a) and (b) of this section, there is authorized to be appropriated $100,000 for the fiscal year beginning July 1, 1973, and for each succeeding fiscal year during the term of this chapter, which shall be made available to the States in such amounts as the Secretary may determine for developing a new commercial fishery therein. (As amended Pub. L. 92–590, §§ 1–3, Oct. 27, 1972, 86 Stat. 1303.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–590 substituted provisions authorizing appropriations for the fiscal year beginning July 1, 1973, and for the four succeeding years, for provisions authorizing such appropriations for the fiscal year beginning July 1, 1969, and for the three succeeding fiscal years.

Subsec. (b). Pub. L. 92–590 substituted provisions authorizing the appropriation of $1,500,000 for the fiscal year beginning July 1, 1973 and for each of the succeeding four fiscal years, for provisions authorizing appropriation of $650,000 for the fiscal year beginning July 1, 1969, and for the three succeeding fiscal years.

Subsec. (c). Pub. L. 92–590 substituted "for the fiscal year beginning July 1, 1973" for "for the fiscal year beginning July 1, 1969".

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4 of Pub. L. 92–590 provided that: "The provisions of this Act [amending this section] shall be effective July 1, 1973."

TRANSFER OF FUNCTIONS

Secretary of Commerce was substituted for Secretary of the Interior in view of: the creation of the National Oceanic and Atmospheric Administration in the Department of Commerce and the Office of Administrator of such Administration; the abolition of the Bureau of Commercial Fisheries in the Interior Department and the Office of Director of such Bureau; transfers of functions, including functions formerly vested by law in the Secretary of the Interior or the Interior Department which were administered through the Bureau of Commercial Fisheries or were primarily related to such Bureau, exclusive of certain enumerated functions with respect to Great Lakes fishery research, Missouri River Reservoir research, Gulf Breeze Biological Laboratory, and Trans-Alaska pipeline investigations; and transfer of marine sport fish program of Bureau of Sport Fisheries and Wildlife by 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 12.—FEDERAL REGULATION AND DEVELOPMENT OF POWER

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 460m–11, 460ee, 460gg–2 of this title; title 33 section 467a.

§ 791a. Short title.

ADVICE AND CONSENT OF SENATE REQUIRED FOR APPOINTMENT OF DIRECTOR OF ENERGY POLICY OFFICE

Pub. L. 93–153, title IV, § 404, Nov. 16, 1973, 87 Stat. 590, provided that: "The Director of the Energy Policy Office in the Executive Office of the President shall be appointed by the President, by and with the advice and consent of the Senate: *Provided,* That if any individual who is serving in this office on the date of enactment of this Act [Nov. 16, 1973] is nominated for such position, he may continue to act unless and until such nomination shall be disapproved by the Senate."

EXECUTIVE ORDER NO. 11712

Ex. Ord. No. 11712, Apr. 18, 1973, 38 F.R. 9657, which related to the Special Committee on Energy and the National Energy Office, was superseded by Ex. Ord. No. 11726, June 29, 1973, 38 F.R. 17711, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11726

Ex. Ord. No. 11726, June 29, 1973, 38 F.R. 17711, formerly set out as a note under this section, which established the Energy Policy Office, was superseded by Ex. Ord. No. 11775, Mar. 26, 1974, 39 F.R. 11415, set out as a note under this section.

EX. ORD NO. 11775, ABOLITION OF ENERGY POLICY OFFICE

Ex. Ord. No. 11775, Mar. 26, 1974, 39 F.R. 11415, as amended by Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185, provided:

Executive Order No. 11726 of June 29, 1973, established in the Executive Office of the President an Energy Policy Office. Executive Order No. 11748 of December 4, 1973 [set out as a note under section 754 of Title 15], established in the Executive Office of the President a Federal Energy Office. In order to permit an orderly transition, the Energy Policy Office was continued in being on an interim basis. That transition has been successfully completed and the Energy Policy Office should now be abolished.

Now, THEREFORE, by virtue of the authority vested in me as the President of the United States of America it is hereby ordered as follows:

SEC. 1. The Energy Policy Office is hereby abolished and Executive Order No. 11726 of June 29, 1973, is hereby superseded.

SEC. 2. [Revoked by Ex. Ord. No. 11790, June 25, 1974, 39 F.R. 23185].

SEC. 3. The Administrator of General Services shall take such steps as may be necessary to wind up the affairs of the Energy Policy Office, and unobligated funds, if any, that may remain available to defray the expenses of that Office shall be returned to the Emergency Fund of the President.

RICHARD NIXON.

§ 818. Public lands included in project; reservation of lands from entry.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 1014.

Chapter 12A.—TENNESSEE VALLEY AUTHORITY

§ 831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation act.

The board shall without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents as are necessary for the transaction of its business, fix their compensation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or employee of the Corporation shall receive a salary in excess of that received by the members of the board.

* * * * *

Insofar as applicable, the benefits of subchapter I of chapter 81 of Title 5 shall extend to persons given employment under the provisions of this chapter. (May 18, 1933, ch. 32, § 3, 48 Stat. 59, amended June 6, 1972, Pub. L. 92–310, title II, § 225(a), 86 Stat. 206.)

REFERENCES IN TEXT

The Civil Service laws, referred to in the text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

"Subchapter I of chapter 81 of Title 5" was substituted for "the Act entitled 'An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes,' approved September 7, 1916, as amended" on authority of section 7(b) of Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 631. The Act of Sept. 7, 1916, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 643 (of which section 1 revised and enacted Title 5, U.S.C., into law), and is now covered by subchapter I of chapter 81 of Title 5.

AMENDMENTS

1972—Pub. L. 92–310 eliminated provisions which permitted the board to require bonds from managers, assistant managers, officers, employees, attorneys, and agents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5363.

§ 831c. Corporate powers generally; eminent domain, construction of dams, transmission lines, etc.

Except as otherwise specifically provided in this chapter, the Corporation—

* * * * *

(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

The board shall select a treasurer and as many assistant treasurers as it deems proper: *Provided,* That any member of said board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

* * * * *

(As amended June 6, 1972, Pub. L. 92–310, title II, § 225(b), 85 Stat. 206.)

AMENDMENTS

1972—Subsec. (f). Pub. L. 92–310 eliminated provisions which required the treasurer and assistant treasurers to give bonds for the safekeeping of securities and moneys of the Corporation.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (k) of this section to approve transfers under subsecs. (a) and (c) of this section, other than leases for terms of less than 20 years and conveyance of property having a value not in excess of $500, delegated to the Administrator of General Services, see section 1(16) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 831f. Control of plants and property vested in corporation; transfer of other property to corporation.

DELEGATION OF FUNCTIONS

Authority of the President under subsection (b) of this section to provide for the transfer to the Tennessee Valley Authority of the use, possession, and control of real or personal property of the United States deemed by the Administrator of General Services to be necessary and proper for the purposes of that Authority as provided for in this section, delegated to the Administrator of General Services, see section 1(17) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 831h. Annual financial statement; purchases and contracts; audit by Comptroller General.

* * * * *

(b) All purchases and contracts for supplies or services, except for personal services, made by the Corporation, shall be made after advertising, in such

manner and at such times sufficiently in advance of opening bids, as the Board shall determine to be adequate to insure notice and opportunity for competition: *Provided,* That advertisement shall not be required when, (1) an emergency requires immediate delivery of the supplies or performance of the services; or (2) repair parts, accessories, supplemental equipment, or services are required for supplies or services previously furnished or contracted for; or (3) the aggregate amount involved in any purchase of supplies or procurement of services does not exceed $10,000; in which cases such purchases of supplies or procurement of services may be made in the open market in the manner common among businessmen: *Provided further,* That in comparing bids and in making awards the Board may consider such factors as relative quality and adaptability of supplies or services, the bidder's financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repairs and maintenance services, the time of delivery or performance offered, and whether the bidder has complied with the specifications.

* * * * *

(As amended July 25, 1974, Pub. L. 93–356, § 5, 88 Stat. 390.)

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93–356 substituted "$10,000" for "$500".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 850.

§ 831n–4. Bonds for financing power program.

(a) Authorization; amount; use of proceeds; restriction on contracts for sale or delivery of power; exchange power arrangements; payment of principal and interest; bond contracts.

The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $15,000,000,000 outstanding at any one time to assist in financing its power program and to refund such bonds. The Corporation may, in performing functions authorized by this chapter, use the proceeds of such bonds for the construction, acquisition, enlargement, improvement, or replacement of any plant or other facility used or to be used for the generation or transmission of electric power (including the portion of any multiple-purpose structure used or to be used for power generation); as may be required in connection with the lease, lease-purchase, or any contract for the power output of any such plant or other facility; and for other purposes incidental thereto. Unless otherwise specifically authorized by Act of Congress the Corporation shall make no contracts for the sale or delivery of power which would have the effect of making the Corporation or its distributors, directly or indirectly, a source of power supply outside the area for which the Corporation or its distributors were the primary source of power supply on July 1, 1957, and such additional area extending not more than five miles around the periphery of such area as may be necessary to care for the growth of the Corporation and its distributors within said area: *Provided, however,* That such additional area shall not in any event increase by more than 2½ per centum (or two thousand square miles, whichever is the lesser) the area for which the Corporation and its distributors were the primary source of power supply on July 1, 1957: *And provided further,* That no part of such additional area may be in a State not now served by the Corporation or its distributors or in a municipality receiving electric service from another source on or after July 1, 1957, and no more than five hundred square miles of such additional area may be in any one State now served by the Corporation or its distributors.

Nothing in this subsection shall prevent the Corporation or its distributors from supplying electric power to any customer within any area in which the Corporation or its distributors had generally established electric service on July 1, 1957, and to which electric service was not being supplied from any other source on the effective date of this Act.

Nothing in this subsection shall prevent the Corporation, when economically feasible, from making exchange power arrangements with other power-generating organizations with which the Corporation had such arrangements on July 1, 1957, nor prevent the Corporation from continuing to supply power to Dyersburg, Tennessee, and Covington, Tennessee, or from entering into contracts to supply or from supplying power to the cities of Paducah, Kentucky; Princeton, Kentucky; Glasgow, Kentucky; Fulton, Kentucky; Monticello, Kentucky; Hickman, Kentucky; Chickamauga, Georgia; Ringgold, Georgia; Oak Ridge, Tennessee; and South Fulton, Tennessee; or agencies thereof; or from entering into contracts to supply or from supplying power for the Naval Auxiliary Air Station in Lauderdale and Kemper Counties, Mississippi, through the facilities of the East Mississippi Electric Power Association: *Provided further,* That nothing herein contained shall prevent the transmission of TVA power to the Atomic Energy Commission or the Department of Defense or any agency thereof, on certification by the President of the United States that an emergency defense need for such power exists. Nothing in this chapter shall affect the present rights of the parties in any existing lawsuits involving efforts of towns in the same general area where TVA power is supplied to obtain TVA power.

The principal of and interest on said bonds shall be payable solely from the Corporation's net power proceeds as hereinafter defined. Net power proceeds are defined for purposes of this section as the remainder of the Corporation's gross power revenues after deducting the costs of operating, maintaining, and administering its power properties (including costs applicable to that portion of its multiple-purpose properties allocated to power) and payments to States and counties in lieu of taxes but before deducting depreciation accruals or other charges representing the amortization of capital expenditures, plus the net proceeds of the sale or other disposition of any power facility or interest therein, and shall include reserve or other funds created from such sources. Notwithstanding the provisions of section 831y of this title or any other provision of law, the Corporation may pledge and use its net power proceeds for payment of the principal of and interest on said bonds, for purchase or redemption thereof,

and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable. The Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into in connection with the issuance thereof (any such agreement being hereinafter referred to as a "bond contract") with respect to the establishment of reserve funds and other funds, adequacy of charges for supply of power, application and use of net power proceeds, stipulations concerning the subsequent issuance of bonds or the execution of leases or lease-purchase agreements relating to power properties, and such other matters, not inconsistent with this chapter, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds. The issuance and sale of bonds by the Corporation and the expenditure of bond proceeds for the purposes specified herein, including the addition of generating units to existing power-producing projects and the construction of additional power-producing projects, shall not be subject to the requirements or limitations of any other law.

* * * * *

(e) Payment of excess power proceeds into Treasury; deferral.

From net power proceeds in excess of those required to meet the Corporation's obligations under the provisions of any bond or bond contract, the Corporation shall, beginning with fiscal year 1961, make payments into the Treasury as miscellaneous receipts on or before June 30, of each fiscal year as a return on the appropriation investment in the Corporation's power facilities, plus a repayment sum of not less than $10,000,000 for each of the first five fiscal years, $15,000,000 for each of the next five fiscal years, and $20,000,000 for each fiscal year thereafter, which repayment sum shall be applied to reduction of said appropriation investment until a total of $1,000,000,000 of said appropriation investment shall have been repaid. The said appropriation investment shall consist, in any fiscal year, of that part of the Corporation's total investment assigned to power as of the beginning of the fiscal year (including both completed plant and construction in progress) which has been provided from appropriations or by transfers of property from other Government agencies without reimbursement by the Corporation, less repayments of such appropriation investment made under title II of the Government Corporations Appropriation Act, 1948, this chapter, or other applicable legislation. The payment as a return on the appropriation investment in each fiscal year shall be equal to the computed average interest rate payable by the Treasury upon its total marketable public obligations as of the beginning of said fiscal year applied to said appropriation investment. Payments due hereunder may be deferred for not more than two years when, in the judgment of the Board of Directors of the Corporation, such payments cannot feasibly be made because of inadequacy of funds occasioned by drought, poor business conditions, emergency replacements, or other factors beyond the control of the Corporation.

* * * * *

(As amended Nov. 28, 1975, Pub. L. 94–139, 89 Stat. 750.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–139, § 1(a), substituted "$15,000,000,000" for "$5,000,000,000".

Subsec. (e). Pub.L. 94–139, § 1(b), struck out "December 31 and" preceding "June 30".

§ 831r. Patents; access to Patent and Trademark Office and right to copy patents; compensation to patentees.

The Corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its constitutional powers, shall have access to the Patent and Trademark Office of the United States for the purpose of studying, ascertaining, and copying all methods, formula, and scientific information (not including access to pending applications for patents) necessary to enable the Corporation to use and employ the most efficacious and economical process for the production of fixed nitrogen, or any essential ingredient of fertilizer, or any method of improving and cheapening the production of hydroelectric power, and any owner of a patent whose patent rights may have been thus in any way copied, used, infringed, or employed by the exercise of this authority by the Corporation shall have as the exclusive remedy a cause of action against the Corporation to be instituted and prosecuted on the equity side of the appropriate district court of the United States, for the recovery of reasonable compensation for such infringement. The Commissioner of Patents and Trademarks shall furnish to the Corporation, at its request and without payment of fees, copies of documents on file in his office: *Provided*, That the benefits of this section shall not apply to any art, machine, method of manufacture, or composition of matter, discovered or invented by such employee during the time of his employment or service with the Corporation or with the Government of the United States. (As amended Jan. 3, 1975, Pub. L. 93–596, § 3, 88 Stat. 1949.)

AMENDMENTS

1975—Pub. L. 93–596 substituted "Patent and Trademark Office" and "Commissioner of Patents and Trademarks" for "Patent Office" and "Commissioner of Patents", respectively.

CHAPTER 12B.—BONNEVILLE PROJECT

§ 832a. General administrative provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838i of this title.

§ 832i. Employment of personnel.

REFERENCES IN TEXT

The civil-service laws, referred to in subsecs. (a) and (b) in 1970 Edition, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

Provisions of the second and fourth sentences of subsec. (b) which authorized the Administrator to fix the compensation of laborers, mechanics and workmen without regard to the Classification Act of 1923, and any other laws, rules, or regulations relating to the payment of employees of the United States and which authorized the

Administrator, the Secretary of the Army and the Federal Power Commission to fix the compensation of experts without regard to the Classification Act of 1923, were omitted as obsolete. Sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the 1923 Act and all laws or parts of laws inconsistent with the 1949 Act. While section 1106(a) of the 1949 Act provided that references in other laws to the 1923 Act should be held and considered to mean the 1949 Act, it did not have the effect of continuing the exceptions contained in this subsection because of section 1106(b) which provided that the application of the 1949 Act to any position, officer, or employee shall not be affected by section 1106 (a). The Classification Act of 1949 was repealed by Act Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 632 (of which section 1 revised and enacted Title 5, U.S.C., into law). Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838i of this title.

§§ 832j, 832k.

SECTION REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 838i of this title.

Chapter 12D.—COLUMBIA BASIN PROJECT

§§ 835j to 835m.

SECTIONS REFERRED TO IN OTHER SECTIONS

These sections are referred to in section 838 of this title; title 43 section 615rrr.

Chapter 12F.—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 838 of this title.

Chapter 12G.—PACIFIC NORTHWEST FEDERAL TRANSMISSION SYSTEM [NEW]

Sec.

838. Congressional findings; authority and duties of Secretary of Interior relating to Federal Columbia River Power System unaffected.
838a. Definitions.
838b. Operation and maintenance of Federal transmission system; construction of improvements, betterments, additions and replacements; criteria.
838c. Approval by Congress of expenditures for acquisition by condemnation of transmission facilities; exceptions; notice of request for approval to contracting or inter-connected entities in Pacific Northwest.
838d. Transmission of non-Federal power.
838e. Acquisition of property.
838f. Marketing of Federal power; sales agent.
838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval by Federal Power Commission; criteria for modification and establishment.
838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery.
838i. Bonneville Power Administration fund.
(a) Establishment; composition; availability of transferred funds for expenditures.
(b) Authorized purposes of expenditures.
(c) Restriction on use of expenditures to authorized purposes; expenditures of moneys received in trust; applicability of provisions of Government Corporation Control Act.
(d) Audit of financial transactions by Comptroller General; report to Congress.
838j. Same; investment of excess moneys; deposit of moneys.
838k. Bonneville Power Administration bonds.
(a) Issuance and sale; terms and conditions; interest rate; limitation on aggregate principal amount outstanding.
(b) Payment of principal, premiums, and interest from net proceeds; "net proceeds" defined.
(c) Purchase and sale by Secretary of Treasury; public debt transactions.

§ 838. Congressional findings; authority and duties of Secretary of Interior relating to Federal Columbia River Power System unaffected.

(a) Congress finds that in order to enable the Secretary of the Interior to carry out the policies of Public Law 88–552 relating to the marketing of electric power from hydroelectric projects in the Pacific Northwest, Public Laws 89–448 and 89–561 relating to use of revenues of the Federal Columbia River Power System to provide financial assistance to reclamation projects in the Pacific Northwest, the treaty between the United States and Canada relating to the cooperative development of the resources of the Columbia River Basin, and other applicable law, it is desirable and appropriate that the revenues of the Federal Columbia River Power System and the proceeds of revenue bonds be used to further the operation, maintenance, and further construction of the Federal transmission system in the Pacific Northwest.

(b) Other than as specifically provided herein, the present authority and duties of the Secretary of the Interior relating to the Federal Columbia River Power System shall not be affected by this chapter. The authority and duties of the Administrator referred to herein are subject to the supervision and direction of the Secretary. (Pub. L. 93–454, § 2, Oct. 18, 1974, 88 Stat. 1376.)

REFERENCES IN TEXT

Pub. L. 88–552, referred to in subsec. (a), is Pub. L. 88–552, §§ 1 to 9, Aug. 31, 1964, 78 Stat. 756, which enacted section 837 et seq. of this title.

Pub. L. 89–448, referred to in subsec. (a), is Pub. L. 89–448, §§ 1 to 3, June 14, 1966, 80 Stat. 200, which enacted sections 835j and 835k of this title and amended section 832h of this title.

Pub. L. 89–561, referred to in subsec. (a), is Pub. L. 89–561, §§ 1 to 6, Sept. 7, 1966, 80 Stat. 707, which enacted sections 835l and 835m of this title and section 1962d–6 of Title 42, The Public Health and Welfare, and amended sections 835j and 835k of this title.

SHORT TITLE

Section 1 of Pub. L. 93–454 provided that: "This Act [which enacted this chapter] may be cited as the 'Federal Columbia River Transmission System Act'."

§ 838a. Definitions.

As used in this chapter—

(a) The term "Administrator" means the Administrator, Bonneville Power Administration.

(b) The term "electric power" means electric peaking capacity or electric energy, or both.

(c) The term "major transmission facilities" means transmission facilities intended to be used to provide services not previously provided by the Bonneville Power Administration with its own facilities.

(Pub. L. 93–454, § 3, Oct. 18, 1974, 88 Stat. 1376.)

§ 838b. Operation and maintenance of Federal transmission system; construction of improvements, betterments, additions and replacements; criteria.

The Secretary of the Interior, acting by and through the Administrator, shall operate and maintain the Federal transmission system within the Pacific Northwest and shall construct improvements, betterments, and additions to and replacements of such system within the Pacific Northwest as he determines are appropriate and required to:

(a) integrate and transmit the electric power from existing or additional Federal or non-Federal generating units;

(b) provide service to the Administrator's customers;

(c) provide interregional transmission facilities; or

(d) maintain the electrical stability and electrical reliability of the Federal system: *Provided, however,* That the Administrator shall not construct any transmission facilities outside the Pacific Northwest, excepting customer service facilities within any contiguous areas, not in excess of seventy-five airline miles from said region, which are a part of the service area of a distribution cooperative which has (i) no generating facilities, and (ii) a distribution system from which it serves both within and without said region, nor shall he commence construction of any major transmission facility within the Pacific Northwest, unless the expenditure of the funds for the initiation of such construction is specifically approved by Act of Congress.

(Pub. L. 93–454, § 4, Oct. 18, 1974, 88 Stat. 1376.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838c of this title.

§ 838c. Approval by Congress of expenditures for acquisition by condemnation of transmission facilities; exceptions; notice of request for approval to contracting or interconnected entities in Pacific Northwest.

(a) Unless specifically authorized by Act of Congress, the Administrator shall not expend funds made available under this chapter, other than funds specifically appropriated by the Congress for such purpose, to acquire any operating transmission facility by condemnation: *Provided,* That this provision shall not restrict the acquisition of the right to cross such a facility by condemnation.

(b) At least sixty days prior to the time a request for approval or authority under this section or section 838b of this title is sent to Congress, the Administrator shall give notice of such request to entities in the Pacific Northwest with which the Administrator has power sales or exchange contracts or transmission contracts or which have a transmission interconnection with the Federal transmission system. (Pub. L. 93–454, § 5, Oct. 18, 1974, 88 Stat. 1377.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838e of this title.

§ 838d. Transmission of non-Federal power.

The Administrator shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which he determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States. (Pub. L. 93–454, § 6, Oct. 18, 1974, 88 Stat. 1377.)

§ 838e. Acquisition of property.

Subject to the provisions of section 838c of this title the Administrator may purchase or lease or otherwise acquire and hold such real and personal property in the name of the United States as he deems necessary or appropriate to carry out his duties pursuant to law. (Pub. L. 93–454, § 7, Oct. 18, 1974, 88 Stat. 1377.)

§ 838f. Marketing of Federal power; sales agent.

The Administrator is hereby designated as the marketing agent for all electric power generated by Federal generating plants in the Pacific Northwest, constructed by, under construction by, or presently authorized for construction by the Bureau of Reclamation or the United States Corps of Engineers except electric power required for the operation of each Federal project and except electric power from the Green Springs project of the Bureau of Reclamation. (Pub. L. 93–454, § 8, Oct. 18, 1974, 88 Stat. 1377.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838g of this title.

§ 838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval by Federal Power Commission; criteria for modification and establishment.

Schedules of rates and charges for the sale, including dispositions to Federal agencies, of all electric power made available to the Administrator pursuant to section 838f of this title or otherwise acquired, and for the transmission of non-Federal electric power over the Federal transmission system, shall become effective upon confirmation and approval thereof by the Federal Power Commission. Such rate schedules may be modified from to time by the Secretary of the Interior, acting by and through the Administrator, subject to confirmation and approval by the Federal Power Commission, and shall be fixed and established (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles, (2) having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 8381(b)(9) of this title, and (3) at levels to produce such additional revenues as may be required, in the aggregate with all other revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this chapter, and amounts required to establish and

maintain reserve and other funds and accounts established in connection therewith. (Pub. L. 93–454, § 9, Oct. 18, 1974, 88 Stat. 1377.)

§ 838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery.

The said schedules of rates and charges for transmission, the said schedules of rates and charges for the sale of electric power, or both such schedules, may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas. The recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system. (Pub. L. 93–454, § 10, Oct. 18, 1974, 88 Stat. 1378.)

§ 838i. Bonneville Power Administration fund.

(a) Establishment; composition; availability of transferred funds for expenditures.

There is hereby established in the Treasury of the United States a Bonneville Power Administration fund (hereinafter referred to as the "fund"). The fund shall consist of (1) all receipts, collections, and recoveries of the Administrator in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Administrator, (3) any appropriations made by the Congress for the fund, and (4) the following funds which are hereby transferred to the Administrator: (i) all moneys in the special account in the Treasury established pursuant to Executive Order Numbered 8526 dated August 26, 1940, (ii) the unexpended balances in the continuing fund established by the provisions of section 832j of this title, and (iii) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Secretary of the Interior, acting by and through the Administrator, as authorized in this chapter and any other Act relating to the Federal Columbia River transmission system, subject to such limitations as may be prescribed by any applicable appropriation act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Administrator.

(b) Authorized purposes of expenditures.

The Administrator may make expenditures from the fund, which shall have been included in his annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriation acts, for any purpose necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (i) the transmission system, including facilities and structures appurtenant thereto, and (ii) additions, improvements, and betterments thereto (hereinafter in this chapter referred to as "transmission system");

(2) operation, maintenance, repair, and relocation, to the extent such relocation is not provided for under subsection (1) above, of the transmission system;

(3) electrical research, development, experimentation, test, and investigation related to construction, operation, and maintenance of transmission systems and facilities;

(4) marketing of electric power;

(5) transmission over facilities of others and rental, lease, or lease-purchase of facilities;

(6) purchase of electric power (including the entitlement of electric plant capability) (i) on a short-term basis to meet temporary deficiencies in electric power which the Administrator is obligated by contract to supply, or (ii) if such purchase has been heretofore authorized or is made with funds expressly appropriated for such purchase by the Congress, or (iii) if to be paid for with funds provided by other entities for such purpose under a trust or agency arrangement;

(7) defraying emergency expenses or insuring continuous operation;

(8) paying the interest on, premiums, discounts, and expenses, if any, in connection with the issuance of, and principal of all bonds issued under section 838k(a) of this title, including provision for and maintenance of reserve and other funds established in connection therewith;

(9) making such payments to the credit of the reclamation fund or other funds as are required by or pursuant to law to be made into such funds in connection with reclamation projects in the Pacific Northwest: *Provided,* That this clause shall not be construed as permitting the use of revenues for repayment of costs allocated to irrigation at any project except as otherwise expressly authorized by law;

(10) making payments to the credit of miscellaneous receipts of the Treasury for all unpaid costs required by or pursuant to law to be charged to and returned to the general fund of the Treasury for the repayment of the Federal investment in the Federal Columbia River Power System from electric power marketed by the Administrator; and

(11) acquiring such goods and services, and paying dues and membership fees in such professional, utility, industry, and other societies, associations, and institutes, together with expenses related to such memberships, including but not limited to the acquisitions and payments set forth in the general provisions of the annual appropriations Act for the Department of Interior, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this chapter.

(c) Restriction on use of expenditures to authorized purposes; expenditures of moneys received in trust; applicability of provisions of Government Corporation Control Act.

Moneys heretofore or hereafter appropriated shall be used only for the purposes for which appropriated, and moneys received by the Administrator in trust shall be used only for carrying out such trust. The provisions of the Government Corporation Control Act shall be applicable to the Administrator in

the same manner as they are applied to the wholly owned Government corporations named in section 846 of Title 31, but nothing in the proviso of section 850 of Title 31 shall be construed as affecting the powers granted in subsection (b)(11) of this section and in sections 832a(f), 832i(b), and 832k(a) of this title.

(d) Audit of financial transactions by Comptroller General; report to Congress.

Notwithstanding the provisions of sections 850 and 851 of Title 31, the financial transactions of the Administrator shall be audited by the Comptroller General at such times and to such extent as the Comptroller General deems necessary, and reports of the results of each such audit shall be made to the Congress within 6½ months following the end of the fiscal year covered by the audit. (Pub. L. 93–454, § 11, Oct. 18, 1974, 88 Stat. 1378.)

REFERENCES IN TEXT

Government Corporation Control Act, referred to in subsec. (c), is classified to section 841 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 838g, 838k of this title.

§ 838j. Same; investment of excess moneys; deposit of moneys.

(a) If the Administrator determines that moneys in the fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(b) With the approval of the Secretary of the Treasury, the Administrator may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Administrator and the Secretary of the Treasury may mutually agree. (Pub. L. 93–454, § 12, Oct. 18, 1974, 88 Stat. 1380.)

§ 838k. Bonneville Power Administration bonds.

(a) Issuance and sale; terms and conditions; interest rate; limitation on aggregate principal amount outstanding.

The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name and for and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this chapter collectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of the transmission system, and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed $1,250,000,000.

(b) Payment of principal, premiums, and interest from net proceeds; "net proceeds" defined.

The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 838i(b)(2) through (b)(7) and (b)(11) of this title, and shall include reserve or other funds created from such receipts.

(c) Purchase and sale by Secretary of Treasury; public debt transactions.

The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this chapter and for that purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the bonds issued by the Administrator under this chapter. The Secretary of the Treasury may, at any time, sell any of the bonds acquired by him under this chapter. All redemptions, purchases, and sales by the Secretary of the Treasury of such bonds shall be treated as public debt transactions of the United States. (Pub. L. 93–454, § 13, Oct. 18, 1974, 88 Stat. 1380.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (c), is Act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, which was classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c–1, sections 757c–2, 757c–3, 757c–4, 757c, 757e, 758, 760, and 764, former section 765, and sections 766, 769, 771, 773, 774, and 801 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 838i of this title.

Chapter 14.—REGULATION OF WHALING

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1402 of this title.

§ 916a. United States Commissioner and Deputy Commissioner; appointment, tenure, and compensation.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

Chapter 15A.—GREAT LAKES FISHERIES

§ 932. Commissioners; appointment, number, and compensation.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 933. Advisory Committee; appointment and number of members; factors in selection of members; membership on other committees; compensation; meetings.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 934. Repealed. Pub. L. 92–471, title II, § 203(a), Oct. 9, 1972, 86 Stat. 787.

Section, act June 4, 1956, ch. 358, § 5, 70 Stat. 243, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure, and Title 5, Government Organization and Employees.

Chapter 16.—TUNA CONVENTIONS

§ 952. Commissioners; number, appointment, and qualifications.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

§ 953. Advisory Committee; composition; appointment; compensation; duties.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 954. Repealed. Pub. L. 92–471, title II, § 203(b), Oct. 9, 1972, 86 Stat. 787.

Section, act Sept. 7, 1950, ch. 907, § 5, 64 Stat. 778, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure and Title 5, Government Organization and Employees.

Chapter 16A.—ATLANTIC TUNAS CONVENTION [NEW]

Sec.
971. Definitions.
971a. Commissioners.
971b. Advisory committee.
971c. Authority of Secretary of State; cooperative enforcement agreements.
971d. Administration.
(a) Regulations; cooperation with other parties to convention; utilization of personnel, services, and facilities for enforcement.
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(d) Commission recommendations concerning bluefin tuna; regulations.
971e. Violations; fines and forfeitures; related laws.
971f. Enforcement.
971g. Cooperation in carrying out Convention; assistance to Commission; non-restraint of Commission functions; State jurisdiction; continuing review of State laws and regulations.
971h. Authorization of appropriations.

§ 971. Definitions.

For the purpose of this chapter—

(1) The term "Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, including any amendments or protocols which are or become effective for the United States.

(2) The term "Commission" means the International Commission for the Conservation of Atlantic Tunas provided for in article III of the Convention.

(3) The term "Council" means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to article V of the Convention.

(4) The term "fisheries zone" means the entire zone established by the United States under the Act of October 14, 1966 (16 U.S.C. 1091–1094), or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.

(5) The term "fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for any species of fish covered by the Convention, or any activities in support thereof.

(6) The term "fishing vessel" means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.

(7) The term "Panel" means any panel established by the Commission pursuant to article VI of the Convention.

(8) The term "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the United States.

(9) The term "Secretary" means the Secretary of Commerce.

(10) The term "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 94–70, § 2, Aug. 5, 1975, 89 Stat. 385.)

SHORT TITLE

Section 1 of Pub. L. 94–70 provided: That this Act [enacting this chapter and provisions set out as notes under this section] may be cited as the 'Atlantic Tunas Convention Act of 1975'."

SEPARABILITY OF PROVISIONS

Section 11 of Pub. L. 94–70 provided that: "If any provision of this Act [this chapter] or the application of such provision to any circumstance or persons shall be held invalid, the validity of the remainder of the Act [this chapter] and the applicability of such provision to

other circumstances or persons shall not be affected thereby."

§ 971a. Commissioners.

(a) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 971b of this title, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners. (Pub. L. 94–70, § 3, Aug. 5, 1975, 89 Stat. 385.)

§ 971b. Advisory committee.

The United States Commissioners shall appoint an advisory committee which shall be composed of not less than five nor more than twenty individuals who shall be selected from the various groups concerned with the fisheries covered by the Convention. Each member of the advisory committee shall serve for a term of two years and be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all nonexecutive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission. Members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Commissioners—

(1) if not more than three members of the advisory committee are designated by the committee to attend any meeting of the Commission, Council, or advisory committee, or of any Panel, each of such members shall be paid for his actual transportation expenses and per diem incident to his attendance; and

(2) in any case in which more than three members are designated by the advisory committee to attend any such meeting, each such member to whom paragraph (1) does not apply may be paid for his actual transportation expenses and per diem incident to his attendance.

(Pub. L. 94–70, § 4, Aug. 5, 1975, 89 Stat. 386.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 971a of this title.

§ 971c. Authority of Secretary of State; cooperative enforcement agreements.

(a) The Secretary of State is authorized to receive on behalf of the United States, reports, requests, and other communications of the Commission, and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, with the concurrence of the Secretary and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, is authorized to take appropriate action on behalf of the United States with regard to recommendations received from the Commission pursuant to article VIII of the Convention. The Secretary and, when appropriate, the Secretary of the department in which the Coast Guard is operating, shall inform the Secretary of State as to what action he considers appropriate within five months of the date of the notification of the recommendation from the Commission, and again within forty-five days of the additional sixty-day period provided by the Convention if any objection is presented by another contracting party to the Convention, or within thirty days of the date of the notification of an objection made within the additional sixty-day period, whichever date shall be the later. After any notification from the Commission that an objection of the United States is to be considered as having no effect, the Secretary shall inform the Secretary of State as to what action he considers appropriate within forty-five days of the sixty-day period provided by the Convention for reaffirming objections. The Secretary of State shall take steps under the Convention to insure that a recommendation pursuant to article VIII of the Convention does not become effective for the United States prior to its becoming effective for all contracting parties conducting fisheries affected by such recommendation on a meaningful scale in terms of their effect upon the success of the conservation program, unless he determines, with the concurrence of the Secretary, and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, that the purposes of the Convention would be served by allowing a recommendation to take effect for the United States at some earlier time.

(b) The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, is authorized to enter into agreements with any contracting party, pursuant to paragraph 3 of article IX of the Convention, relating to cooperative enforcement of the provisions of the Convention, recommendations in force for the United States and such party or parties

under the Convention, and regulations adopted by the United States and such contracting party or parties pursuant to recommendations of the Commission. Such agreements may authorize personnel of the United States to enforce measures under the Convention and under regulations of another party with respect to persons under that party's jurisdiction, and may authorize personnel of another party to enforce measures under the Convention and under United States regulations with respect to persons subject to the jurisdiction of the United States. Enforcement under such an agreement may not take place within the territorial seas or fisheries zone of the United States. Such agreements shall not subject persons or vessels under the jurisdiction of the United States to prosecution or assessment of penalties by any court or tribunal of a foreign country. (Pub. L. 94–70, § 5, Aug. 5, 1975, 89 Stat. 386.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 971d, 971f of this title.

§ 971d. Administration.

(a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement.

The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the fisheries zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(b) Primary enforcement responsibility.

Enforcement activities at sea under the provisions of this chapter for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

(c) Regulations to carry out Commission recommendations.

(1) Upon favorable action by the Secretary of State under section 971c(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the

Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section; and

(I) impose such other requirements and provide for such other measures as the Secretary may deem necessary to implement any recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(d) Commission recommendations concerning bluefin tuna; regulations.

(1) Not withstanding [1] section 971c(a) of this title and subsection (c) of this section, the recommendations of the Commission concerning bluefin tuna (Thunnus thynnus thynnus) which were proposed at the third regular meeting of the Council during the period beginning November 20 and ending November 26, 1974, shall apply with respect to persons and vessels subject to the jurisdiction of the United States immediately upon the taking effect of the regulations required to be promulgated under paragraph (2) of this subsection.

(2) Not later than the thirtieth day after August 5, 1975, the Secretary shall promulgate such regulations as may be necessary and appropriate to carry out the purposes of paragraph (1) of this subsection, including, after consultation with the Secretary of the department in which the Coast Guard is operating, regulations providing procedures and methods of enforcement. Notwithstanding provisions of section 553 of Title 5, such regulations may be promulgated without general notice of proposed rulemaking, and such regulations may take effect on the date they are published in the Federal Register. Such regulations shall remain in force and effect with respect to persons and vessels subject to the jurisdiction of the United States until the last date on which the recommendations referred to in paragraph (1) can take effect under paragraph (3) of article VIII of the Convention, and if such recommendations do take effect under the Convention with respect to the United States on or before such last date, such regulations shall remain in force and effect, subject to the provisions of the Convention and this chapter, for so long as such recommendations are so in effect. (Pub. L. 94–70, § 6, Aug. 5, 1975, 89 Stat. 387.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 971e of this title.

§ 971e. Violations; fines and forfeitures; related laws.

(a) It shall be unlawful—

(1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section 971d of this title; or

(2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section 971d of this title, without regard to the citizenship of the person or vessel which took the fish.

(b) It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

(c) It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

(d) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 971d (c) or (d) of this title, from any

[1] So in original.

country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section 971d (c) or (d) of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 971d (c) or (d) of this title.

(e)(1) Any person who—

(A) violates any provision of subsection (a) of this section shall be assessed a civil penalty of not more than $25,000, and for any subsequent violation of such subsection (a) shall be assessed a civil penalty of not more than $50,000;

(B) violates any provision of subsection (b) or (c) of this section shall be assessed a civil penalty of not more than $1,000, and for any subsequent violation of such subsection (b) or (c) shall be assessed a civil penalty of not more than $5,000; or

(C) violates any provision of subsection (d) of this section shall be assessed a civil penalty of not more than $100,000.

(2) The Secretary is responsible for the assessment of the civil penalties provided for in paragraph (1). The Secretary may remit or mitigate any civil penalty assessed by him under this subsection for good cause shown.

(3) No penalty shall be assessed under this subsection unless the person accused of committing any violation is given notice and opportunity for a hearing with respect to such violation.

(4) Upon any failure of any person to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(f) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

(g) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter. (Pub. L. 94–70, § 7, Aug. 5, 1975, 89 Stat. 390.)

§ 971f. Enforcement.

(a) Any person authorized in accordance with the provisions of this chapter to enforce the provisions of this chapter and the regulations issued thereunder may—

(1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this chapter or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;

(2) arrest, with or without a warrant, any person who violates the provisions of this chapter or any regulation issued thereunder in his presence or view;

(3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and

(4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this chapter or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

(b) To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section 971c(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

(c) Notwithstanding the provisions of section 2464 of Title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of

the court pending judgment in the case. (Pub. L. 94–70, § 8, Aug. 5, 1975, 89 Stat. 391.)

§ 971g. Cooperation in carrying out Convention; assistance to Commission; non-restraint of Commission functions; State jurisdiction; continuing review of State laws and regulations.

(a) The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.

(b) All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.

(c) None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.

(d) (1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.

(2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State—

(A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or

(B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced.

If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such regulations.

(e) To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced. (Pub. L. 94–70, § 9, Aug. 5, 1975, 89 Stat. 392.)

§ 971h. Authorization of appropriations.

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, for fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal year 1977 such sums as may be necessary for carrying out the purposes and provisions of this chapter, including—

(1) necessary travel expenses of the United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of Title 5; and

(2) the United States share of the joint expenses of the Commission as provided in article X of the convention.

(Pub. L. 94–70, § 10, Aug. 5, 1975, 89 Stat. 393.)

Chapter 17.—NORTHWEST ATLANTIC FISHERIES

§ 981. Definitions.

When used in this chapter—

(a) Convention: The word "convention" means the International Convention for the Northwest Atlantic Fisheries signed at Washington under date of February 8, 1949, and any amendments thereto which have entered or may enter into force for the United States including, but not limited to, the 1956 protocol, the 1961 declaration of understanding, the 1963 protocol, and the 1965 protocols.

* * * * *

(c) Person: The word "person" denotes individuals, partnerships, corporations, and associations, subject to the jurisdiction of the United States, or to the jurisdiction of other parties to the convention with respect to international measures of control in force for such parties.

(d) Vessel: The word "vessel" denotes every kind, type, or description of watercraft, aircraft, or other contrivance, used, or capable of being used, as a means of transportation on water subject to the jurisdiction of the United States, or to the jurisdiction of other parties to the convention with respect to international measures of control in force for such parties.

(e) Fishing gear: The term "fishing gear" means any apparatus or appliance of whatever kind or description used or capable of being used for fishing.

(f) Fishing: The word "fishing" means the catching, taking, or fishing for, or the attempted catching, taking, or fishing for any species of fish or mammal protected under regulations adopted pursuant to this chapter.

(g) Fish: The word "fish" means any species of fish, mollusks, crustaceans, including lobsters, and all forms of marine animal life covered by the convention.

(h) International measures of control: The term "international measures of control" means any proposal of the Commission which had entered into force with respect to the United States with regard to measures of control on the high seas which may be undertaken for the purposes of insuring the application of the convention and the measures in force

thereunder by the United States with respect to persons or vessels of some or all other parties to the convention and by other parties to the convention with respect to persons or vessels of the United States.

(i) National measures of control: The term "national measures of control" means any proposal of the Commission which has entered into force for the United States with regard to measures of control on the high seas which may be undertaken for the purposes of insuring the application of the convention and the measures in force thereunder by the United States with respect to persons or vessels subject to its jurisdiction, and any other actions which may be undertaken by the United States for the purposes of insuring the application of the convention and the measures in force thereunder to persons or vessels subject to its jurisdiction pursuant to the provisions of this chapter. (As amended Aug. 11, 1971, Pub. L. 92–87, §§ 101–103, 85 Stat. 310; July 10, 1974, Pub. L. 93–339, § 1(a), 88 Stat. 293.)

AMENDMENTS

1974—Pub. L. 93–339 redesignated subsecs. (e) to (j) as (d) to (i), respectively. Former subsec. (d), which defined the term "convention area" was stricken.

1971—Subsec. (a). Pub. L. 92–87, § 101, substituted provisions extending the definition of "Convention" to include amendments which have entered or may enter into force for the United States including the 1956 protocol, the 1961 declaration of understanding, the 1963 protocol and 1965 protocols for provisions extending such definition to include amendments including the 1961 declaration of understanding and the 1963 protocol, as well as the convention signed at Washington under the date of February 8, 1949.

Subsec. (c). Pub. L. 92–87, § 102(a), extended the definition of "person" to include persons subject to the jurisdiction of other parties to the convention with respect to international measures of control in force for such parties.

Subsec. (e). Pub. L. 92–87, § 102(b), extended the definition of "vessel" to include vessels subject to the jurisdiction of other parties to the convention with respect to international measures of control in force for such parties.

Subsecs. (i), (j). Pub. L. 92–87, § 103, added subsecs. (i), (j).

§ 982. Commissioners; appointment and number; rules; compensation.

(a) The United States shall be represented, on the Commission and on any panel in which the United States participates, by three Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall be entitled to adopt such rules of procedure as they find necessary. The Secretary of State, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission or of the United States Commissioners or of the advisory committee established pursuant to section 983 of this title, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(b) The United States Commissioners or Alternate Commissioners, although officers of the United States Government while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners. (As amended Aug. 11, 1971, Pub. L. 92–87, § 111 (a), (b), 85 Stat. 313.)

AMENDMENTS

1971—Subsec. (a). Pub L. 92–87, § 111(a), added provisions for the designation of Alternate United States Commissioners to insure that the United States is represented by the full number of Commissioners to which it is entitled at any meeting of the Commission, in the event that one or more of the Commissioners are absent.

Subsec. (b). Pub. L. 92–87, § 111(b), substituted "Commissioners or Alternate Commissioners" for "Commissioners" in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 984 of this title.

§ 983. Advisory Committee; composition; appointment and tenure; meetings; officers; rules; attendance at meetings; compensation; traveling expenses; annual report to Congress.

(a) The United States Commissioners shall appoint an advisory committee composed of not less than five nor more than twenty persons who shall fairly represent the various interests in the fisheries under regulation by the Commission, including fishermen and vessel owners, and who shall be well informed concerning the fisheries under regulation by the Commission. The members of the advisory committee shall serve for a term of two years, and shall be eligible for reappointment. The advisory committee shall meet at least once a year, or more frequently if necessary, shall elect its own officers, and shall be entitled to fix the times and places of its meetings and to adopt rules of procedure for their conduct. The United States Commissioners shall also have the authority to call a meeting of the advisory committee on the request of three members of the committee. The advisory committee, or such representatives as it may designate, may attend as observers all nonexecutive meetings of the Commission or of any panel of which the United States is a member. The advisory committee shall be invited to all nonexecutive meetings of the United States Commissioners and at such meetings shall be given full opportunity to examine and to be heard on all proposed programs of investigation, reports, and recommendations of the United States Commissioners and all regulations proposed to be issued under the authority of this chapter.

(b) The members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Commissioners not more than five members of the advisory committee, designated by the committee, shall be paid for their actual transportation expenses and per diem incident to attendance at meetings of the Commission or a panel thereof. The Secretary of State shall submit an annual report to the Congress of the costs incurred in reimbursing travel and per diem expenses of members of the advisory committee pursuant to this subsection. (As amended July 10, 1974, Pub. L. 93–339, § 1 (b), (c), (g), 88 Stat. 293.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–339, § 1(b), substituted "under regulation by the Commission" for "of the convention area".

Subsec. (b). Pub. L. 93–339, § 1(c), (g), substituted "shall be paid" for "may be paid" and added requirement that the Secretary of State submit an annual report to the

Congress of the costs incurred in reimbursing travel and per diem expenses of members of the advisory committee.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 984 of this title.

§ 984. Commissioners and Alternate Commissioners; service as special government employees.

Service of an individual as a United States Commissioner or Alternate United States Commissioner appointed pursuant to section 982(a) of this title, or as a member of the advisory committee appointed pursuant to section 983(a) of this title, shall be deemed service as a special Government employee of the United States, as defined in section 202 of Title 18. (As amended Aug. 11, 1971, Pub. L. 92-87, § 111 (c), 85 Stat. 313.)

AMENDMENTS

1971—Pub. L. 92-87 amended section to conform the concept of service of Commissioner or Alternate Commissioner as a special government employee of the United States to such service as defined in section 202 of Title 18.

§ 985. Secretary of State to act for United States; regulations.

* * * * *

(b) The Secretary of State, with the concurrence of the Secretary of Commerce, is authorized to take appropriate action on behalf of the United States with regard to proposals received from the Commission pursuant to article VII of the convention. The Secretary of Commerce shall inform the Secretary of State as to what action he considers appropriate within five months of the date on the notification of the proposal by the depositary government, and again within the first forty days of the additional sixty-day period provided by the convention if a rejection is presented by another party to the convention, or within twenty days after receipt of a rejection received within the additional sixty-day period, whichever date shall be the later. The Secretary of the Department in which the United States Coast Guard is operating shall similarly inform the Secretary of State as to whether he considers that any such proposal relating to international measures of control or national measures of control should be rejected.

(c) In the event that a proposal of the Commission does not come into effect because of a number of objections in accordance with the provisions of paragraph 7 of article VIII of the convention, the Secretary of State, with the concurrence of the Secretary of Commerce and the Secretary of the Department in which the Coast Guard is operating, may nevertheless assent to giving effect to it on an agreed date by agreement with one or more of the parties to the convention, as provided for in that paragraph. (As amended Aug. 11, 1971, Pub. L. 92-87, §§ 104, 105, 85 Stat. 310, 311.)

AMENDMENTS

1971—Subsec. (b). Pub. L. 92-87, § 104, substituted provisions empowering the Secretary of State to take appropriate action with the concurrence of the Secretary of Commerce, with regard to proposals received from the Commission, and requiring the Secretary of Commerce to inform the Secretary of State as to what action he considers appropriate within specified time limits, and requiring the Secretary of the Department in which the Coast Guard is operating to similarly inform the Secretary of State as to whether he considers that any such proposal relating to international measures of control or national measures of control should be rejected for provisions empowering the Secretary of State, to accept or reject proposals received from the Commission with the concurrence of the Secretary of the Interior.

Subsec. (c). Pub. L. 92-87, § 105, added subsec. (c).

§ 986. Administration and enforcement of chapter.

(a) The Secretary of Commerce is authorized and directed to administer and enforce all of the provisions of the convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions he is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the convention and this chapter, and, with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the Government of any party to the convention.

(b) Enforcement activities under the provisions of this chapter relating to vessels engaged in fishing and subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce. The Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of Commerce, is authorized and directed to adopt such regulations as may be necessary to provide for national measures of control, and with the concurrence of the Secretary of Commerce and the Secretary of State, for international measures of control and to cooperate with the duly authorized enforcement officials of the Government of any party to the convention.

(c) The Secretary of Commerce may designate officers of the States of the United States to enforce the provisions of the convention, or of this chapter, or of the regulations of the Secretary of Commerce. When so designated such officers are authorized to function as Federal law-enforcement officers for the purposes of this chapter.

(d) Except as otherwise provided in this chapter, the duly authorized officials of any party to the convention shall have the same powers as Federal law-enforcement officers to enforce the provisions of the convention, or of this chapter, or of the regulations of the Secretaries of Commerce and the Department in which the Coast Guard is operating, with respect to persons or vessels of the United States, pursuant to and to the extent authorized by international measures of control, and such officials are authorized to function as Federal law-enforcement officers for the purposes of this chapter. Such powers shall include, only if and to the extent authorized in international measures of control, arrest of any person or search of any vessel subject to the

jurisdiction of the United States, execution of any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this chapter, and seizure of any property. Unless such enforcement is authorized by the international measures of control or by agreement of the United States, such duly authorized officials shall not exercise these powers in any area inhabited by species of fish which are regulated by the Commission in which the United States exercises the same exclusive rights in respect to fisheries as it has in the territorial sea except with regard to vessels of their own flag which may be entitled within such zone, by agreement with the United States, to (1) engage in the fisheries, or to (2) engage in activities in support of a foreign fishery fleet, or to (3) engage in the taking of any Continental Shelf fishery resource which appertains to the United States.

(e) Any duly authorized enforcement officer or employee of the Department of Commerce may be designated by the Secretary of Commerce and any Coast Guard officer may be designated by the Secretary of the Department in which the Coast Guard is operating to enforce international measures of control on behalf of the United States with regard to persons or vessels of any other party to the convention to which the measure is applicable, in any area inhabited by species of fish which are regulated by the Commission except any such area in which any other government exercises the same exclusive rights in respect to fisheries as it has in its territorial sea unless such enforcement is authorized by the international measures of control or by agreement with the government concerned.

(f) Any person designated to enforce international measures of control pursuant to subsection (e) of this section may be directed to attend as witness and to produce such available records and files or duly certified copies thereof as may be necessary to the prosecution in any country party to the convention of any violation of the provisions of the convention or any law or regulation of that country for the enforcement thereof when requested by the appropriate authorities of such country. (As amended Aug. 11, 1971, Pub. L. 92–87, §§ 106, 107, 110(a), (b), 85 Stat. 311, 312; July 10, 1974, Pub. L. 93–339, § 1 (d), (e), 88 Stat. 293.)

AMENDMENTS

1974—Subsec. (d). Pub. L. 93–339, § 1(d), substituted "any area inhabited by species of fish which are regulated by the Commission" for "that portion of the convention area".

Subsec. (e). Pub. L. 93–339, § 1(e), substituted "any area inhabited by species of fish which are regulated by the Commission except any such area" for "any portion of the convention area except such portions".

1971—Subsec. (a). Pub. L. 92–87, § 110(a), substituted provisions authorizing the Secretary of Commerce to administer and enforce this chapter for provisions authorizing the Secretary of the Interior to administer and enforce this chapter through the Fish and Wildlife Service.

Subsec. (b). Pub. L. 92–87, § 106, substituted provisions imposing primary responsibility for the enforcement of this chapter relating to vessels engaged in fishing and subject to the jurisdiction of the United States on the Secretary of the Department in which the Coast Guard is operating in cooperation with the Secretary of Commerce, and authorizing such Secretary, with the concurrence of the Secretary of Commerce, to adopt regulations to provide for national measures of control, and with the concurrence of the Secretary of Commerce and the Secretary of State, for international measures of control and to cooperate with the duly authorized enforcement officials of the Government of any party to the Convention for provisions imposing such responsibility on the United States Coast Guard in cooperation with the Fish and Wildlife Service.

Subsec. (c). Pub. L. 92–87, § 110(b), substituted "Secretary of Commerce" for "Secretary of the Interior" in two places.

Subsecs. (d)–(f). Pub. L. 92–87, § 107, added subsecs. (d)–(f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

§ 988. Unlawful activities.

* * * * *

(c) It shall be unlawful for the master or owner or any person in charge of any vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, including in any area inhabited by species of fish which are regulated by the Commission the duly authorized officials of any party to the convention authorized to undertake international measures of control, to board such vessel or inspect its equipment, books, documents, or other articles or question the persons on board in accordance with the provisions of the convention, this chapter, regulations adopted pursuant thereto, international measures of control, and national measures of control, or to obstruct such officials in the execution of such duties. (As amended Aug. 11, 1971, Pub. L. 92–87, § 108, 85 Stat. 312; July 10, 1974, Pub. L. 93–339, § 1(f), 88 Stat. 293.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–339 substituted "any area inhabited by species of fish which are regulated by the Commission" for "the convention area".

1971—Subsec. (c). Pub. L. 92–87 added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 989, 1031 of this title.

§ 989. Penalties.

(a) Any person violating subsection (a) or (b) of section 988 of this title or any regulation adopted by the Secretary of Commerce pursuant to this chapter, upon conviction, shall be fined for a first offense not more than $500 and for a subsequent offense committed within five years not more than $1,000 and for such subsequent offense the court may order forfeited, in whole or in part, the fish taken by such person, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.

(b) Any person violating subsection (c) of section 988 of this title or any regulation adopted pursuant to this chapter, upon conviction, shall be fined for a first offense not more than $1,000 and be imprisoned for not more than six months, or both, and for a subsequent offense committed within five years not more than $10,000 and be imprisoned for not more than one year, or both. (As amended Aug. 11, 1971, Pub. L. 92–87, § 109, 85 Stat. 312.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–87, § 109(a) (1), (2), (3), redesignated existing provisions as subsec. (a) and in subsec. (a) so redesignated, substituted "subsection (a) or (b) of section 988 of this title or any regulation adopted by the Secertary of Commerce pursuant to this chapter" for "any provision of this chapter or any regulation adopted pursuant to this chapter".

Subsec. (b). Pub. L. 92–87, § 109(a)(4), added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 988, 1030, 1031 of this title.

§ 990. Arrests; enforcement officers; warrants and processes; searches and seizures; stay of execution; bond or stipulation.

(a) Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the convention, this chapter, and the regulations issued pursuant thereto, shall have power without warrant or other process to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the convention or of this chapter, or of the regulations issued pursuant thereto and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of Title 18; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States when he has reasonable cause to believe that such vessel is engaging in fishing in violation of the provisions of the convention or this chapter, or the regulations issued pursuant thereto. Any person authorized to enforce the provisions of the convention, this chapter, or the regulations issued pursuant thereto shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this chapter, and shall have power with a search warrant to search any vessel, vehicle, person, or place at any time. The judges of the United States district courts and the United States Commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Any person authorized to enforce the provisions of the convention, this chapter, or the regulations issued pursuant thereto may, except in the case of a first offense, seize, whenever and wherever lawfully found, all fish taken or retained, and all fishing gear involved in fishing, contrary to the provisions of the convention or this chapter or to regulations issued pursuant thereto. Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

* * * * *

(As amended Aug. 11, 1971, Pub. L. 92–87, § 110 (c), (d), 85 Stat. 312.)

AMENDMENTS

1971—Subsec. (a). Pub. L. 92–87 substituted "Department of Commerce" for "Fish and Wildlife Service of the Department of the Interior" and "Secretary of Commerce" for "Secretary of the Interior".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

§ 991. Appropriations.

There is authorized to be appropriated from time to time, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the purposes and provisions of this chapter, including the United States share of the joint expenses of the Commission as provided in article XI of the convention; for the expenses of the United States Commissioners, alternate United States Commissioners, and authorized advisers. (As amended Aug. 11, 1971, Pub. L. 92–87, § 111(d), 85 Stat. 313.)

AMENDMENTS

1971—Pub. L. 92–87 substituted "Commissioners, Alternate United States Commissioners," for "Commissioners".

Chapter 18.—WATERSHED PROTECTION AND FLOOD PREVENTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 section 1931; title 40 App., section 214.

§ 1001. Declaration of policy.

Erosion, floodwater, and sediment damages in the watersheds of the rivers and streams of the United States, causing loss of life and damage to property, constitute a menace to the national welfare; and it is the sense of Congress that the Federal Government should cooperate with States and their political subdivisions, soil or water conservation districts, flood prevention or control districts, and other local public agencies for the purpose of preventing such damages, of furthering the conservation, development, utilization, and disposal of water, and the conservation and utilization of land and thereby of preserving, protecting, and improving the Nation's land and water resources and the quality of the environment. (As amended Aug. 30, 1972, Pub. L. 92–419, title II, § 201(a), 86 Stat. 667.)

AMENDMENTS

1972—Pub. L. 92–419 expanded the declaration of policy to include conservation and utilization of land, improvement of land and water resources, and quality of the environment.

§ 1002. Definitions.

For the purposes of this chapter, the following terms shall mean:

The "Secretary"—the Secretary of Agriculture of the United States.

"Works of improvement"—any undertaking for—

(1) flood prevention (including structural and land treatment measures),

(2) the conservation, development, utilization, and disposal of water, or

(3) the conservation and proper utilization of land,

in watershed or subwatershed area not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity.

No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of $250,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: *Provided,* That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Public Works of the Senate and the Committee on Public Works of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title II, § 201(b), 86 Stat. 667.)

AMENDMENTS

1972—Pub. L. 92–419 defined "works of improvement" to include any undertaking for the conservation and proper utilization of land.

§ 1003. Assistance to local organizations.

In order to assist local organizations in preparing and carrying out plans for works of improvement, the Secretary is authorized, upon application of local organizations if such application has been submitted to, and not disapproved within 45 days by, the State agency having supervisory responsibility over programs provided for in this chapter, or by the Governor if there is no State agency having such responsibility—

* * * * *

(5) to obtain the cooperation and assistance of other Federal agencies in carrying out the purposes of this section;

(6) to enter into agreements with landowners, operators, and occupiers, individually or collectively, based on conservation plans of such landowners, operators, and occupiers which are developed in cooperation with and approved by the soil and water conservation district in which the land described in the agreement is situated, to be carried out on such land during a period of not to exceed ten years, providing for changes in cropping systems and land uses and for the installation of soil and water conservation practices and measures needed to conserve and develop the soil, water, woodland, wildlife, and recreation resources of lands within the area included in plans for works of improvement, as provided for in such plans, including watershed or subwatershed work plans in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented. Applications for assistance in developing such conservation plans shall be made in writing to the soil and water conservation district involved, and the proposed agreement shall be reviewed by such district. In return for such agreements by landowners, operators, and occupiers the Secretary shall agree to share the costs of carrying out those practices and measures set forth in the agreement for which he determines that cost sharing is appropriate and in the public interest. The portion of such costs, including labor, to be shared shall be that part which the Secretary determines is appropriate and in the public interest for the carrying out of the practices and measures set forth in the agreement, except that the Federal assistance shall not exceed the rate of assistance for similar practices and measures under existing national programs. The Secretary may terminate any agreement with a landowner, operator, or occupier by mutual agreement if the Secretary determines that such termination would be in the public interest, and may agree to such modifications of agreements, previously entered into hereunder, as he deems desirable to carry out the purposes of this paragraph or to facilitate the practical administration of the agreements provided for herein. Notwithstanding any other provision of law, the Secretary, to the extent he deems it desirable to carry out the purposes of this paragraph, may provide in any agreement hereunder for (1) preservation for a period not to exceed the period covered by the agreement and an equal period thereafter of the cropland, crop acreage, and allotment history applicable to land covered by the agreement for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation on the production of any crop; or (2) surrender of any such history and allotments.

(As amended Aug. 30, 1972, Pub. L. 92–419, title II, § 201(c), 86 Stat. 667.)

REFERENCES IN TEXT

Section 13 of Act Dec. 22, 1944 (58 Stat. 887), as amended and supplemented, referred to in par. (6), and part of provisions popularly known as Flood Control Act of 1944, was not classified to the Code.

AMENDMENTS

1972—Par. (6). Pub. L. 92–419 added par. (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1007, 1008 of this title.

§ 1004. Conditions for Federal assistance.

The Secretary shall require as a condition to providing Federal assistance for the installation of works of improvement that local organizations shall—

(1) acquire, or with respect to interests in land to be acquired by condemnation provide assurances satisfactory to the Secretary that they will acquire, without cost to the Federal Government from funds appropriated for the purposes of this chapter, such land, easements, or rights-of-way as will be needed in connection with works of improvement installed with Federal assistance: *Provided,* That when a local organization agrees to operate and maintain any reservoir or other area included in a plan for public fish and wildlife or recreational development, the Secretary shall

be authorized to bear not to exceed one-half of the costs of (a) the land, easements, or rights-of-way acquired or to be acquired by the local organization for such reservoir or other area, and (b) minimum basic facilities needed for public health and safety, access to, and use of such reservoir or other area for such purposes: *Provided further*, That the Secretary shall be authorized to participate in recreational development in any watershed project only to the extent that the need therefor is demonstrated in accordance with standards established by him, taking into account the anticipated man-days of use of the projected recreational development and giving consideration to the availability within the region of existing water-based outdoor recreational developments: *Provided further*, That the Secretary shall be authorized to participate in not more than one recreational development in a watershed project containing less than seventy-five thousand acres, or two such developments in a project containing between seventy-five thousand and one hundred and fifty thousand acres, or three such developments in projects exceeding one hundred and fifty thousand acres: *Provided further*, That when the Secretary and a local organization have agreed that the immediate acquisition by the local organization of land, easements, or right-of-way is advisable for the preservation of sites for works of improvement included in a plan from encroachment by residential, commercial, industrial, or other development, the Secretary shall be authorized to advance to the local organization from funds appropriated for construction of works of improvement the amounts required for the acquisition of such land, easements or rights-of-way; and, except where such costs are to be borne by the Secretary, such advance shall be repaid by the local organization, with interest, prior to construction of the works of improvement, for credit to such construction funds;

(2) assume (A) such proportionate share, as is determined by the Secretary to be equitable in consideration of national needs and assistance authorized for similar purposes under other Federal programs, of the costs of installing any works of improvement, involving Federal assistance (excluding engineering costs), which is applicable to the agricultural phases of the conservation, development, utilization, and disposal of water or for fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land: *Provided*, That works of improvement for water quality management shall consist primarily of water storage capacity in reservoirs for regulation of streamflow, except that any such storage and water releases shall not be provided as a substitute for adequate treatment or other methods of controlling waste at the source, and shall be consistent with standards and regulations adopted by the Water Resources Council on Federal cost sharing for water quality management, and (B) all of the cost of installing any portion of such works applicable to other purposes except that any part of the construction cost (including engineering costs) applicable to flood prevention and features relating thereto shall be borne by the Federal Government and paid for by the Secretary out of funds appropriated for the purposes of this chapter: *Provided*, That, in addition to and without limitation on the authority of the Secretary to make loans or advancements under section 1006a of this title, the Secretary may pay for any storage of water for present or anticipated future demands or needs for municipal or industrial water included in any reservoir structure constructed or modified under the provisions of this chapter as hereinafter provided: *Provided further*, That the cost of water storage to meet future demands may not exceed 30 per centum of the total estimated cost of such reservoir structure and the local organization shall give reasonable assurances, and there is evidence, that such demands for the use of such storage will be made within a period of time which will permit repayment within the life of the reservoir structure of the cost of such storage: *Provided further*, That the Secretary shall determine prior to initiation of construction or modification of any reservoir structure including such water supply storage that there are adequate assurances by the local organization or by an agency of the State having authority to give such assurances, that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands: *And provided further*, That the cost to be borne by the local organization for anticipated future demands may be repaid within the life of the reservoir structure but in no event to exceed fifty years after the reservoir structure is first used for the storage of water for anticipated future water supply demands, except that (1) no reimbursement of the cost of such water supply storage for anticipated future demands need be made until such supply is first used, and (2) no interest shall be charged on the cost of such water-supply storage for anticipated future demands until such supply is first used, but in no case shall the interest-free period exceed ten years. The interest rate used for purposes of computing the interest on the unpaid balance shall be determined in accordance with the provisions of section 1006a of this title.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title II, § 201(d)–(f), 86 Stat. 668.)

AMENDMENTS

1972—Par. (1). Pub. L. 92–419, § 201(d), inserted after "without cost to the Federal Government" the words "from funds appropriated for the purposes of this chapter".

Par. (2)(A). Pub. L. 92–419, § 201(e), substituted "fish and wildlife development, recreational development, ground water recharge, water quality management, or the conservation and proper utilization of land", for "fish and wildlife or recreational development" and added water quality management proviso.

Par. (2)(B). Pub. L. 92–419, § 201(f), in revising the text and making changes in phraseology, authorized payment for water storage for present demands, inserted at

end of first proviso "as hereinafter provided", substituted provisions respecting Secretary's determination of adequate assurances by the local agency or by an agency of the State having authority to give such assurances that the Secretary will be reimbursed the cost of water supply storage for anticipated future demands, and that the local organization will pay not less than 50 per centum of the cost of storage for present water supply demands, for provisions respecting the giving of reasonable assurances by the local organization of repayment of cost of such water supply storage for anticipated future demands, and substituted permissive provisions for repayment of cost for anticipated future demands within life of the reservoir structure for former mandatory provisions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1005 of this title.

§ 1005. Works of improvement.

* * * * *

(4) Transmission of certain plans and recommendations to Congress.

Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $250,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for goodwater[1] detention structures, (c) which includes features which may affect the public health, or (d) which includes measures for control or abatement of water pollution, shall be submitted to the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

* * * * *

(As amended Aug. 30, 1972, Pub. L. 92–419, title II, § 201(g), 86 Stat. 669.)

AMENDMENTS

1972—Subd. (4). Pub. L. 92–419 substituted in item (a) "works of improvement for reclamation or irrigation" for "reclamation or irrigation works", in item (b) "goodwater" for "floodwater", added items (c) and (d), required submission of plans to Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency and transmittal of views and recommendations of such officials to the Congress.

Chapter 19.—NORTH PACIFIC FISHERIES

Sec.

1025a. Administration of Convention and chapter; cooperation with other signatories to the Convention; regulations; area applicable [New].

§ 1022. United States Commissioners.

(a) Appointment; number; term and compensation.

The United States shall be represented on the Commission by not more than four United States Commissioners to be appointed by the President and to serve at his pleasure; except that after January 1, 1973, (1) each United States Commissioner shall be appointed for a term of office of not to exceed four years, but is eligible for reappointment; and (2) any United States Commissioner may be appointed for a lesser term if necessary to insure that the term of office of not more than one Commissioner will expire in any one year. Of such Commissioners, who shall receive no compensation for their services as Commissioners, one shall be an official of the United States Government, and each of the others shall be a person residing in a State, the residents of which maintain a substantial fishery in the Convention area.

(b) Alternate United States Commissioners; appointment; powers and duties.

The Secretary of State, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission or of the United States Section or of the Advisory Committee established pursuant to section 1023 of this title, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, § 108(a), 86 Stat. 786.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–471 designated existing provisions as subsec. (a), and in subsec. (a), as so redesignated, added provision that after January 1, 1973, each United States Commissioner shall be appointed for four years with eligibility for reappointment, and for shorter period under special circumstances.

Subsec. (b). Pub. L. 92–471 added subsec. (b).

§ 1023. Advisory Committee; appointment and number of members; terms; sessions; meetings; compensation.

* * * * *

(d) The members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Section, not more than three members of the committee, designated by the Committee, shall be paid for transportation expenses and per diem incident to attendance at meetings of the Commission or of the United States Section. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, § 108(b), 86 Stat. 787.)

AMENDMENTS

1972—Subsec. (d). Pub. L. 92–471 substituted "shall be paid" for "may be paid."

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

[1] So in original. Probably should read "floodwater".

§ 1024. Repealed. Pub. L. 92–471, title I, § 108(c), Oct. 9, 1972, 86 Stat. 787.

Section, act Aug. 12, 1954, ch. 669, § 5, 68 Stat. 698, provided that service of individuals appointed as United States Commissioners shall not be treated as service for the purposes of certain sections of Title 18, Crimes and Criminal Procedure and Title 5, Government Organization and Employees.

§ 1025a. Administration of Convention and chapter; cooperation with other signatories to the Convention; regulations; area applicable.

The Secretary of Commerce is authorized and directed to administer and enforce all the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions he is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and, with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. He shall adopt such regulations on consultation with the United States Section and they shall apply only to stocks of fish in the Convention area north of the parallel of north latitude of 48 degrees and 30 minutes. No such reguations shall apply in the Convention area south of the 49th parallel of north latitude with respect to sockeye salmon (Oncorhynchus nerka) or pink salmon (Oncorhynchus gorbuscha). (Aug. 12, 1954, ch. 699, § 7, as added Oct. 9, 1972, Pub. L. 92–471, title I, § 101, 86 Stat. 784.)

§ 1026. Cooperation with other agencies.

Section 7 of act Aug. 12, 1954, ch. 669, 68 Stat. 699, renumbered section 8 by Pub. L. 92–471, title I, § 101, Oct. 9, 1972, 86 Stat. 784.

§ 1027. Enforcement.

(a) Responsibility of Secretary of the Department in which the Coast Guard is operating; regulations for procedures and methods of enforcement.

Enforcement activities under the provisions of this chapter relating to vessels engaged in fishing and subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce. The Secretary of the Department in which the Coast Guard is operating, with the concurrence of the Secretary of Commerce and the Secretary of State, is authorized to adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to articles 9 and 10 of the Convention.

(b) Abstention from fishing in certain areas.

The provisions of the Convention and this chapter relating to abstention from fishing in certain areas by the nationals and vessels of one or more of the contracting parties shall be enforced by the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce and the Secretary of the Treasury.

(c) Boarding and inspecting vessels of Canada or Japan.

For such purposes any Coast Guard officer, any officer of the Department of Commerce, or any other person authorized to enforce the provisions of the Convention and this chapter referred to in subsection (b) of this section may go on board any fishing vessel of Canada or Japan found in waters in which Canada or Japan has agreed by or under the Convention to abstain from exploitation of one or more stocks of fish, and, when he has reasonable cause to believe that such vessel is engaging in operations in violation of the provisions of the Convention, may, without warrant or other process, inspect the equipment, books, documents, and other articles on such vessel and question the persons on board, and for these purposes may hail and stop such vessel, and use all necessary force to compel compliance.

(d) Detention and delivery of vessels suspected of violation.

Whenever any such officer has reasonable cause to believe that any person on any fishing vessel of Canada or Japan is violating, or immediately prior to the boarding of such vessel was violating, the provisions of the Convention referred to in subsection (b) of this section, such person, and any such vessel employed in such violation shall be detained and shall be delivered as promptly as practicable to an authorized official of the nation to which they belong in accordance with the provisions of the Convention.

(e) Enforcement officers as witnesses.

Any officer of the Coast Guard, any officer of the Department of Commerce, or any other person authorized to enforce the provisions of the Convention and this chapter referred to in subsection (b) of this section, may be directed to attend as witnesses and to produce such available records and files or duly certified copies thereof as may be necessary to the prosecution in Canada or Japan of any violation of the provisions of the Convention or any Canadian or Japanese law for the enforcement thereof when requested by the appropriate authorities of Canada or Japan respectively.

(f) Designation of enforcement officers.

The Secretary of Commerce may designate officers of the States and Territories of the United States to enforce the provisions of the Convention and this chapter insofar as they pertain to fishing vessels of the United States and the persons on board such vessels. (Aug. 12, 1954, ch. 669, § 9, formerly § 8, 68 Stat. 699, renumbered and amended Oct. 9, 1972, Pub. L. 92–471, title I, §§ 102, 103, 107, 86 Stat. 784, 786.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–471, § 102(4), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 92–471, §§ 102(2), 107(a), redesignated former subsec. (a) as subsec. (b), and in subsec. (b) as so redesignated, substituted provisions vesting enforcement authority in the Secretary of the Department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce and the Secretary of the Treasury, for provisions vesting such authority in the Coast Guard in cooperation with the Fish and Wildlife Service and the Bureau of Customs. Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 92–471, §§ 102(2), (3), 107(b), redesignated former subsec. (b) as subsec. (c), and in subsec. (c) as so redesignated, substituted "subsection (b)" for "subsection (a)" and "Department of Commerce" for "Fish and Wildlife Service". Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 92–471, §§ 102(2), (3), redesignated former subsec. (c) as subsec. (d), and in subsec. (d) as so redesignated, substituted "subsection (b)" for "subsection (a)". Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 92–471, §§ 102(2), (3), 107(b), redesignated former subsec. (d) as subsec. (e), and in subsec. (e) as so redesignated, substituted "subsection (b)" for "subsection (a)" and "Department of Commerce" for "Fish and Wildlife Service".

Subsec. (f). Pub. L. 92–471, §§ 103, 107(c), designated former section 9 of the North Pacific Fisheries Act of 1954, which was classified to section 1028 of this title, as subsec. (f), and in subsec. (f) as so redesignated, substituted "Secretary of Commerce" for "Secretary of the Interior".

§ 1028. Designation of enforcement officers.

CODIFICATION

Section, act Aug. 12, 1954, ch. 669 § 9, 68 Stat. 699, was designated as subsec. (f) of section 9 of act Aug. 12, 1954, ch. 669, as redesignated by Pub. L. 92–471, title I, § 102(1), Oct. 9, 1972, 86 Stat. 784, which is classified to section 1027(f) of this title.

§ 1029. Unlawful activities.

(a) Fishing and related transactions in violation of regulations and court orders.

It shall be unlawful for any person subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to this chapter or of any order of a court issued pursuant to section 1030 of this title; to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of any such regulation or order; to fail to make, keep, submit, or furnish any record or report required of him by such regulation, or refuse to permit any officer authorized to enforce such regulations to inspect such record or report at any reasonable time.

(b) Abstention by the United States from fishing in certain waters.

It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States to engage in the catching of any stock of fish from which the United States may agree to abstain in the waters specified for such abstention as set forth in the Annex to the Convention, or to load, process, possess, or transport any fish or fish products processed therefrom in the said waters, or to land in a port of the United States any fish so caught, loaded, possessed, or transported or any fish products processed therefrom.

(c) Transacting in fish from waters abstained to by the United States.

It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States knowingly to load, process, possess, or transport any fish specified in subsection (b) of this section or any fish products processed therefrom in the territorial waters of the United States or in any waters of the Convention area in addition to those specified in subsection (b) of this section, or to land in a port of the United States any such fish or fish products.

(d) Transacting in fish from waters abstained to by Canada and Japan.

It shall be unlawful for any person or fishing vessel subject to the jurisdiction of the United States knowingly to load, process, possess, or transport in the Convention area or in the territorial waters of the United States any fish taken by a national of Canada or Japan from a stock of fish from which Canada or Japan respectively has agreed to abstain as set forth in the Annex to the Convention or any fish products processed therefrom, or to land such fish or fish products in a port of the United States.

(e) Aiding and abetting in the taking of fish from waters abstained to by Canada and Japan.

It shall be unlawful for any person subject to the jurisdiction of the United States to aid or abet in the taking of fish by a national or fishing vessel of Canada or of Japan from a stock of fish from which Canada or Japan has respectively agreed to abstain as set forth in the Annex of the Convention.

(f) Refusal to permit boarding and inspection of vessels.

It shall be unlawful for the master or owner or any person in charge of any fishing vessel of the United States to refuse to permit the duly authorized officials of the United States, Canada, or Japan to board such vessel or inspect its equipment, books, documents, or other articles or question the persons on board in accordance with the provision of the Convention, or to obstruct such officials in the execution of such duties.

(g) Commission or omission of acts prohibited or required by regulations.

It shall be unlawful for any person or vessel subject to the jurisdiction of the United States to do any act prohibited or fail to do any act required by any regulation adopted pursuant to this chapter. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, § 104, 86 Stat. 784.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–471, § 104(3), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 92–471, § 104(1) redesignated former subsec. (a) as (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 92–471, §§ 104(1), (2), redesignated former subsec. (b) as (c), and in subsec. (c) as so redesignated, substituted reference to subsec. (b) for (a) in two places. Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 92–471, § 104(1), redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 92–471, § 104(1), redesignated former subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 92–471, § 104(1) redesignated former subsec. (e) as (f).

Subsec. (g). Pub. L. 92–471, § 104(4) added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1030 of this title.

§ 1030. Penalties.

(a) Any person violating subsections (b), (c) or (d) of section 1029 of this title shall upon conviction be fined not more than $10,000, and for such offense the court may order forfeited, in whole or in part, the fish concerned in the offense, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court.

(b) Any person violating subsection (e) of section 1029 of this title shall upon conviction be fined not more than $10,000.

(c) Any person violating subsection (f) of section 1029 of this title shall upon conviction be fined not more than $10,000 and be imprisoned for not more than one year or both, and for such offense the court may order forfeited, in whole or in part the fish and fishing gear on board the vessel, or both, or the monetary value thereof. Such fish and fishing gear shall be disposed of in accordance with the direction of the court.

(d) Any person violating any other provision of this chapter or any regulation adopted pursuant to this chapter, upon conviction, shall be fined for a first offense not more than $500 and for a subsequent offense committed within five years not more than $1,000 and for such subsequent offense the court may order forfeited, in whole or in part, the fish taken by such person, or the fishing gear involved in such fishing, or both, or the monetary value thereof. Such forfeited fish or fishing gear shall be disposed of in accordance with the direction of the court. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, § 105, 86 Stat. 785.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92–471, § 105(1), substituted reference to subsections (b), (c), (d) for (a), (b), (c).

Subsec. (b). Pub. L. 92–471, § 105(2) substituted reference to subsec. (e) for (d).

Subsec. (c). Pub. L. 92–471, § 105(3) substituted reference to subsec. (f) for (e).

Subsec. (d). Pub. L. 92–471, § 105(4), substituted penalties for other offenses for provisions making section 989 of this title inapplicable to violations covered by this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1029 of this title.

§ 1031. Power and authority of enforcement officers.

(a) Arrest, search, seizure and disposal of property.

Any duly authorized enforcement officer or employee of the Department of Commerce; any Coast Guard officer; any United States marshal or deputy United States marshal; any customs officer; and any other person authorized to enforce the provisions of the Convention, this chapter, and the regulations issued pursuant thereto, shall have power without warrant or other process to arrest any person subject to the jurisdiction of the United States committing in his presence or view a violation of the Convention or of this chapter, or of the regulations issued pursuant thereto, and to take such person immediately for examination before a justice or judge or any other official designated in section 3041 of Title 18; and shall have power, without warrant or other process, to search any vessel subject to the jurisdiction of the United States when he has reasonable cause to believe that such vessel is engaging in fishing in violation of the provisions of the Convention or this chapter, or the regulations issued pursuant thereto. Any person authorized to enforce the provisions of the Convention, this chapter, or the regulations issued pursuant thereto, shall have power to execute any warrant or process issued by an officer or court of competent jurisdiction for the enforcement of this chapter, and shall have power with a search warrant to search any vessel, vehicle, person, or place at any time. The judges of the United States district courts and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. Any person authorized to enforce the provisions of the Convention, this chapter, or the regulations issued pursuant thereto may, except in the case of a first offense, seize, whenever and wherever lawfully found, all fish taken or retained, and all fishing gear involved in fishing, contrary to the provisions of the Convention or this chapter or to regulations issued pursuant thereto. Any property so seized shall not be disposed of except pursuant to the order of a court of competent jurisdiction or the provisions of subsection (b) of this section, or, if perishable, in the manner prescribed by regulations of the Secretary of Commerce.

(b) Stay of execution of process; bonds and stipulations.

Notwithstanding the provisions of section 2464 of Title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any property seized if the process has been levied, on receiving from the claimant of the property a bond or stipulation for double the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the property seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, § 106, 86 Stat. 785.)

AMENDMENTS

1972—Pub. L. 92–471 substituted provisions of subsecs. (a) and (b) relating to the authority to arrest without warrant persons committing violations of the Convention, this chapter, or regulations issued pursuant thereto, search vessels suspected of fishing in violation of the Convention, this chapter, or regulations issued pursuant thereto, issue and execution of warrants, seizure of fish and fishgear and disposal thereof, stay of execution of process on receipt of bonds or stipulations, for paragraph incorporating by reference of sections 986(a) and (b), 988, 989, and 990 of this title with exception that regulations under section 986(a) be adopted by the Secretary of the Interior in consultation with the United States Section and that the regulations do not apply to certain areas.

§ 1032. Appropriations; use of funds.

(a) There is authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners without regard to the Standardized Government Travel Regulations, as amended, subchapter I of

chapter 57 of Title 5, or section 5731(a) of Title 5; and

* * * * *

(b) Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with recommendations of the United States Section. (As amended Oct. 9, 1972, Pub. L. 92–471, title I, §§ 107 (c), 108(d), 86 Stat. 786, 787.)

CODIFICATION

In subsection (a)(1), reference to "subchapter I of chapter 57 of title 5, or section 5731(a) of title 5" was substituted for "the Travel Expense Act of 1949, or section 10 of the Act of March 3, 1933 (U.S.C., title 5, sec. 73b)" on authority of section 7(b) of Act Sept. 6, 1966, Pub. L. 89–554, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1972—Subsec. (a)(1). Pub. L. 92–471, § 108(d), substituted "United States Commissioners or Alternate Commissioners" for "United States Commissioners".

Subsec. (b). Pub. L. 92–471, § 107(c), substituted "Secretary of Commerce" for "Secretary of the Interior".

Chapter 20.—NATIONAL FISHERIES CENTER AND AQUARIUM

§ 1054. Advisory Board; establishment; meetings; functions; quorum; executive secretary.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Officers and Employees.

Chapter 21.—PROHIBITION OF FOREIGN FISHING VESSELS IN THE TERRITORIAL WATERS OF THE UNITED STATES

§ 1083. Enforcement responsibility.

The 1970 Amendment note for subsec. (a) of this section, set out in the 1970 Edition, should read as follows: "Pub. L. 91–514 added provisions authorizing the Secretary of the Interior to designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of any territory or possession of the United States to carry out enforcement activities and provisions empowering such officers and employees to function as Federal law enforcement agents."

§ 1085. Definitions.

(a) As used in this chapter, the term "Continental Shelf fishery resource" means living organisms belonging to sedentary species; that is to say, organisms, which at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil of the Continental Shelf, including the following species:

CRUSTACEA

Tanner Crab—Chionoecetes tanneri;
Tanner Crab—Chionoecetes opilio;
Tanner Crab—Chionoecetes angulatus;
Tanner Crab—Chionoecetes bairdi;
King Crab—Paralithodes camtschatica;
King Crab—Paralithodes platypus;
King Crab—Paralithodes brevipes;
Stone Crab—Menippe mercenaria;
Lobster—Homarus Americanus;
Dungeness Crab—Cancer magister;
California King Crab—Paralithodes californiensis;
Golden King Crab—Lithodes aequispinus;
Northern Stone Crab—Lithodes maia;
Stone Crab—Menippe mercenaria; and
Deep-sea Red Crab—Ceryon quinkuedens.

MOLLUSKS

Red Abalone—Haliotis rufescens;
Pink Abalone—Haliotis corrugata;
Japanese Abalone—Haliotis kamtschatkana;
Queen Conch—Strombus gigas;
Surf Clam—Spisula solidissima; and
Ocean Quahog—Artica islandica.

SPONGES

Glove Sponge—Hippiospongia canaliculata;
Sheepswool Sponge—Hippiospongia lachne;
Grass Sponge—Spongia graminea;
Yellow Sponge—Spongia barbera.

(b) The Secretary of Commerce, in consultation with the Secretary of State, is authorized to publish in the Federal Register additional species of living organisms covered by the provisions of subsection (a) of this section.

* * * * *

(As amended Pub. L. 93–242, § 15, Jan. 2, 1974, 87 Stat. 1068.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93–242 inserted ", including the following species:" and the following enumeration of crustacea, mollusks, and sponges after "seabed or the subsoil of the Continental Shelf".

Subsec. (c). Pub. L. 93–242 substituted "Secretary of Commerce" for "Secretary of the Interior" and "additional species of living organisms" for "a list of the species of living organisms".

Chapter 21A.—FISHERIES ZONE CONTIGUOUS TO TERRITORIAL SEA OF THE UNITED STATES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 971, 1362 of this title.

§ 1091. Establishment; fisheries rights.

STUDY OF METHODS OF ENFORCEMENT OF FISHERY MANAGEMENT JURISDICTION

Section 7 of Pub. L. 93–430, Oct. 1, 1974, 88 Stat. 1183 provided that: "The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the 'Secretary'), in cooperation with the Secretaries of Commerce, State, Defense, and the Treasury, and the Attorney General, shall conduct a comprehensive study of all feasible methods of enforcing fishery management jurisdiction, including any possible extension of such jurisdiction. In carrying out such study, the Secretary shall evaluate all available techniques of enforcement including, but not limited to, the use of satellites, remote sensing, vessels, aircraft, radar, or devices implanted on the seafloor."

Chapter 21B.—PROHIBITION OF CERTAIN FOREIGN FISHING VESSELS IN UNITED STATES FISHERIES [NEW]

Sec.
1100. Prohibited activities.
1100a. Violations and penalties; separate violations; forfeitures.
1100a–1. Enforcement.
(a) Issuance of warrants or other process.
(b) Joint responsibility.
(c) Execution of warrants or process.
(d) Search of vessels.
(e) Seizure and disposition of prohibited fish.
(f) Bond or stipulation to stay execution of process or discharge seized fish; approval of surety; conditions: delivery, money payment, or answer to decree; return; judgment upon breach of conditions; proceeds in registry of court.
1100a–2. Regulations.
1100a–3. Definitions.

§ 1100. Prohibited activities.

During the five-year period beginning on October 27, 1972, it shall be unlawful for any person on board any prohibited vessel—

(1) to transfer at sea or cause to be transferred at sea any prohibited fish; or

(2) to land or cause to be landed any prohibited fish in any port of the United States.

(Pub. L. 92–601, § 1, Oct. 27, 1972, 86 Stat. 1327.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1100a of this title.

§ 1100a. Violations and penalties; separate violations; forfeitures.

(a) Any person who knowingly—

(1) violates section 1100 of this title;

(2) takes, sells, transfers, purchases, or receives any prohibited fish which are transferred or landed in violation of section 1100 of this title; or

(3) violates any regulation issued pursuant to section 1100a–2 of this title;

shall be liable to a civil penalty of not more than $1,000, in addition to any other penalty provided by law. Each separate unlawful transfer or landing of prohibited fish shall constitute a separate violation of section 1100 of this title.

(b) Any prohibited fish transferred or landed in violation of section 1100 of this title, or the monetary value thereof, shall be subject to forfeiture. (Pub. L. 92–601, § 2, Oct. 27, 1972, 86 Stat. 1327.)

§ 1100a–1. Enforcement.

(a) Issuance of warrants or other process.

The judges of the United States district courts and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and the regulations issued pursuant thereto.

(b) Joint responsibility.

Enforcement of this chapter and the regulations issued pursuant thereto shall be the joint responsibility of the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating.

(c) Execution of warrants or process.

Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this chapter and the regulations issued pursuant thereto.

(d) Search of vessels.

Such person so authorized shall have the power, with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States.

(e) Seizure and disposition of prohibited fish.

Such person so authorized may seize, whenever and wherever lawfully found, all prohibited fish transferred, landed, taken, sold, purchased, or received in violation of the provisions of this chapter or the regulations issued pursuant thereto. Any prohibited fish so seized may be disposed of pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary concerned.

(f) Bond or stipulation to stay execution of process or discharge seized fish; approval of surety; conditions: delivery, money payment, or answer to decree; return; judgment upon breach of conditions; proceeds in registry of court.

Notwithstanding the provisions of section 2464 of Title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any prohibited fish seized if the process has been levied, on receiving from the claimant of the prohibited fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the violation, conditioned to deliver the prohibited fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the prohibited fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case. (Pub. L. 92–601, § 3, Oct. 27, 1972, 86 Stat. 1327.)

§ 1100a–2. Regulations.

The Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating are authorized jointly and severally to issue such regulations as may be necessary to carry out the provisions of this chapter. (Pub. L. 92–601, § 4, Oct. 27, 1972, 86 Stat. 1328.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1100a of this title.

§ 1100a–3. Definitions.

As used in this chapter—

(1) The term "person" means a person as defined in section 1 of Title 1.

(2) The term "prohibited fish" means, with respect to any prohibited vessel, the fish, mollusk, crustacean, or other form of marine animal or plant life which such vessel was authorized to engage in the catching of before the prohibition described in paragraph (3)(C) of this section was imposed on such vessel by the foreign country concerned.

(3) The term "prohibited vessel" means any vessel of less than five net tons which was—

(A) constructed in a foreign country,

(B) used in a fishery of such foreign country, and

(C) subsequently prohibited by such foreign country from being used in such fishery;

but does not mean any such vessel which was acquired by a citizen of the United States or a resident alien before October 27, 1972.

(Pub. L. 92-601, § 5, Oct. 27, 1972, 86 Stat. 1328.)

Chapter 21C.—OFFSHORE SHRIMP FISHERIES [NEW]

Sec.

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§ 1100b. Definitions.

When used in this chapter—

(a) the term "treaty" shall mean the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, including related annexes, notes, and agreed minutes as these documents may be amended from time to time;

(b) the term "shrimp" shall mean the shrimp Penaeus (M.) duorarum notialis, Peneaus brasiliensis and Penaeus (M.) aztecus subtilis;

(c) the term "area of agreement" shall mean the area in which United States vessels carry on a shrimp fishery in the vicinity of Brazil, as described by the following boundaries: the waters off the coast of Brazil having the isobath of thirty meters as the southwest limit, the latitude 1 degree north as the southern limit, the longitude 47 degrees 30 minutes west as the eastern limit, and a line running from the point of 4 degrees 44 minutes north latitude, 51 degrees 30 minutes west longitude at an azimuth of 17 degrees to the point of 4 degrees 51 minutes north latitude, 51 degrees 28 minutes west longitude and thence at an azimuth of 43 degrees to the point of 8 degrees 58 minutes north latitude, 47 degrees 30 minutes west longitude as the northwestern boundary;

(d) the term "vessel" shall mean every description of watercraft or other contrivance used, or capable of being used, as a means of transportation in water;

(e) the term "Secretary" shall mean the Secretary of Commerce or his delegate;

(f) the term "transship" shall mean the transfer of shrimp from one vessel to another vessel, or the receipt of shrimp by one vessel from another vessel;

(g) the term "fishing" shall mean the taking or attempted taking of shrimp by any means whatsoever;

(h) the term "vessel owner" shall mean any person, partnership, corporation, or association which is the owner of record of a vessel documented under the laws of the United States, except that, with respect to sections 1100b-2 and 1100b-3 of this title, the Secretary may issue such regulations as he deems appropriate to cover applications for an issuance of letters of voluntary compliance and permits with respect to vessels owned by corporations which are owned or controlled by one or more other corporations;

(i) the term "regulations" shall mean rules and regulations issued by the Secretary from time to time as he deems necessary to carry out the purposes and objectives of the treaty and this chapter; and

(j) the term "gear" when applied to any vessel involved in a violation shall mean any single set of net and doors for a single trawl vessel, or for a vessel capable of towing more than one set at a time, as many sets of net and doors as the vessel is capable of towing: *Provided*, That if the vessel owner, master, or other person in charge of

the vessel can show that a particular set (or sets) of net and doors was actually involved in the violation, then that set (or sets) shall be deemed to be the gear of the vessel involved in the violation.

(Pub. L. 93–242, § 2, Jan. 2, 1974, 87 Stat. 1061, amended Pub. L. 94–58, § 3(a), July 24, 1975, 89 Stat. 266.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–58 substituted "March 14, 1975" for "May 9, 1972".

EFFECTIVE DATE OF 1975 AMENDMENT

Section 4 of Pub. L. 94–58 provided that:

"(a) Except as provided in subsection (b), the foregoing provisions of this Act [amending section 1100b–3 of this title] shall take effect on the date of the enactment of this Act [July 24, 1975].

"(b) The amendments made by subsections (a), (b), (c), (e), (f), and (g) of section 3 [amending subsec. (a) of this section and sections 1100b–1, 1100b–2, 1100–4, 1100b–6 and 1100b–7 of this title] shall take effect upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975."

TERMINATION DATE

Section 13 of Pub. L. 93–242, as amended by section 2 of Pub. L. 94–58, provided in part that the provisions of this chapter shall expire September 30, 1977.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94–58 provided that: "This Act [which amended this section and sections 1100b–1, 1100b–2, 1100b–3, 1100b–4, 1100b–6 and 1100b–7 of this title, enacted provisions set out as a note under this section, and amended provisions set out as a note under this section] may be cited as the 'Offshore Shrimp Fisheries Act Amendments of 1975'."

SHORT TITLE

Section 1 of Pub. L. 93–242 provided: "That this Act [enacting this chapter and amending section 1085 of this title] may be cited as the 'Offshore Shrimp Fisheries Act of 1973'."

SEVERABILITY OF PROVISIONS

Section 14 of Pub. L. 93–242 provided that: "The provisions of this Act [this chapter] shall be severable and if any part of the Act [this chapter] is declared unconstitutional or the applicability thereof is held invalid, the constitutionality of the remainder and the applicability thereof shall not be affected thereby."

§ 1100b–1. Permits.

(a) Issuance authorized; maximum number of authorized vessels.

The Secretary is authorized to issue permits to vessel owners for vessels documented under the laws of the United States to engage in fishing in the area of agreement: *Provided*, That the number of vessels which are the subject of permits shall not exceed three hundred and twenty-five or such other number of vessels as may be specified in the treaty from time to time as authorized to fish in the area of agreement: *Provided further*, That no more than two hundred vessels with permits shall be authorized to fish in any quarter of 1975 beginning March 1 and ending February 29, 1976, and no more than one hundred and seventy-five vessels with permits shall be authorized to fish in any quarter of 1976 beginning March 1 and ending February 28, 1977, or such other number or period as may be specified in the treaty from time to time. No vessel owner may be issued a permit with respect to a vessel unless such vessel meets the requirements of the treaty, this chapter, and the regulations.

(b) Permits valid only for vessels to which issued; transfer.

Except as provided in section 1100b–2(d) of this title, a permit shall be valid only for the vessel with respect to which it is issued and shall not cover more than one vessel, except that a vessel owner may, with the prior consent of the Secretary, transfer a permit to another vessel whether or not owned by the same vessel owner.

(c) Annual renewal.

Permits shall be issued for a calendar year, and may be renewed annually.

(d) Terms and conditions of issuance.

Permits shall contain such provisions, and shall be issued upon, and subject to, such terms and conditions as the Secretary deems necessary to carry out the treaty, this chapter, and the regulations. Permit provisions may include, but are not limited to—

(i) the manner, place, and time of conducting fishing operations,

(ii) the keeping of records,

(iii) the furnishing of information to the Secretary,

(iv) the identification and marking of the vessels,

(v) limitations on transshipment operations,

(vi) restrictions or prohibitions on the employment on any permitted vessel of a master or other person against whom a civil penalty has been assessed pursuant to section 1100b–7 of this title,

(vii) prohibited activities,

(viii) revocation of permit for failure to pay a civil penalty assessed against a vessel owner pursuant to section 1100b–7 of this title, and

(ix) the maintaining of an office in the United States by the holder of a permit at which all notices, legal documents, and other material may be served.

Permits may be suspended or revoked by the Secretary for failure to comply with any of the terms or conditions thereof, or with the treaty, this chapter or the regulations. Upon any such suspension or revocation, the permittee shall be afforded a prompt opportunity, after due notice, for a hearing by the Secretary. The decision of the Secretary rendered in connection with such hearing shall be final and binding.

(e) Return of permit to Secretary; refund of annual permit fee.

Permits may be returned to the Secretary. In addition, the Secretary may issue regulations requiring the return of unutilized permits under such circumstances and upon such terms and conditions as he deems appropriate. If the Secretary reissues a permit to another vessel owner, a prorated amount of the annual permit fee for the portion of the year during which the permit is held by another vessel owner shall be refunded to the original permittee. Except as specified in this subsection (e) and in section 1100b–2(c) of this title, permit fees shall not be prorated.

(f) Annual fee.

The annual fee for a permit shall be $1,115 for enforcement services plus an amount of not more than $100, as determined by the Secretary, for the purpose of covering administrative costs. The amount of any deposit transferred to the Offshore Shrimp Fisheries Fund pursuant to section 1100b–3 of this title shall be credited toward the annual permit fee.

(g) Surrender of suspended or revoked permits.

Any permit which has been suspended or revoked, or which is required to be returned, shall be surrendered to the Secretary. (Pub. L. 93–242, § 3, Jan. 2, 1974, 87 Stat. 1063, amended Pub. L. 94–58, § 3(b), July 24, 1975, 89 Stat. 266.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–58, § 3(b)(1), added proviso relating to the number of vessels authorized to fish in any quarter of 1975 beginning March 1 and ending Feb. 29, 1976, and in any quarter of 1976 beginning March 1 and ending Feb. 28, 1977.

Subsec. (f). Pub. L. 94–58, § 3(b)(2), substituted "The annual fee for a permit shall be $1,115" for "The annual fee for a permit for any year other than 1973 shall be $615", struck out provision for a 1973 permit fee of $1,230 for enforcement services plus not more than $200, as determined by the Secretary, for administrative costs, and proviso for a 1973 permit fee of $615 for enforcement services plus not more than $100 for administrative costs for any vessel first documented in that year or certified as not having been engaged in fishing in the area of agreement in 1972.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, see section 4(b) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1100b–2, 1100b–4, 1100b–6 of this title.

§ 1100b–2. Permit procedure.

(a) Method and time for application.

Vessel owners may apply for permits to engage in fishing in the area of agreement. The method and time for application shall be announced in advance in the Federal Register.

(b) Refusal of application; petition for reconsideration; hearing; final and binding decision.

The owner of any vessel for which application for a permit is refused may petition the Secretary for reconsideration, and shall be entitled to a hearing. The decision of the Secretary rendered in connection with such reconsideration shall be final and binding.

(c) Reissuance of returned permits; fee.

The Secretary may reissue permits which have been returned pursuant to section 1100b–1 of this title, to vessel owners with outstanding applications, who have not been able to obtain permits under the procedure set out in subsection (d) of this section. The fee for such reissued permits shall be the prorated share of the annual fee for the portion of the year during which the new permittee holds the permit.

(d) Procedure for granting permits when application is made for more vessels than the number allowed to be issued.

If application is made with respect to more vessels than the number of permits allowed to be issued under section 1100b–1(a) of this title, the following procedure for granting permits shall apply:

(1) All vessel owners to whom letters of voluntary compliance have been issued after March 14, 1975, pursuant to section 1100b–3 of this title, shall have first priority for permits but only as to vessels covered by such letters.

(2) After all vessel owners under subparagraph (1) have been considered for permits, all vessel owners who have been engaged in fishing under permits in the area of agreement, after May 9, 1972, shall have second priority for permits. However, in no event shall a vessel owner be eligible for receiving a permit under this subsection for a given vessel during the first six months after the effective date described in section 4(b) of the Offshore Shrimp Fisheries Act Amendments of 1975, if the Secretary determines that such vessel has engaged in activities during the period from March 14, 1975, to such effective date, which would have constituted a violation specified in section 1100b–6(a)(3) or 1100b–6(a)(5) of this title, but only to the extent section 1100b–6(a)(5) of this title relates to use of fishing gear, fishing vessels and fishing methods, and the closure of the area of agreement to fishing. In the event of any such determination, the vessel owner affected thereby shall be given notice thereof and an opportunity for a hearing. The decision of the Secretary rendered in connection with the hearing shall be final and binding.

(3) After all vessel owners under subparagraphs (1) and (2) have been considered for issuance of a permit, all other vessel owners who have made application may be considered for permits.

If the number of vessels for which application is made in the categories outlined in subparagraph (2) or (3) is more than the number of permits available after having accounted for the vessels in the previous category (or in the case of subparagraph (1), if the number of vessels for which application is made in that category is more than the number of permits available pursuant to the treaty), then the number of permits available shall be proportionally distributed with the applicable category, in a manner provided in the regulations. (Pub. L. 93–242, § 4, Jan. 2, 1974, 87 Stat. 1064, amended Pub. L. 94–58, § 3(c), July 24, 1975, 89 Stat. 266.)

REFERENCES IN TEXT

Section 4(b) of the Offshore Shrimp Fisheries Act Amendments of 1975, referred to in subsec. (d)(2) of this section, is section 4(b) of Pub. L. 94–58, and is set out as a note under section 1100b of this title.

AMENDMENTS

1975—Subsec. (d)(1). Pub. L. 94–58, § 3(c)(1), added "after March 14, 1975" following "issued".

Subsec. (d)(2). Pub. L. 94–58, § 3(c)(2),(3), substituted "engaged in fishing under permits in the area" for "engaged in fishing in the area", "after May 9, 1972" for "during the last five years", "six months after the effective date described in section 4(b) of the Offshore Shrimp Fisheries Act Amendments of 1975" for "six months after

January 2, 1974", "March 14, 1975" for "May 9, 1972", "to such effective date" for "to January 2, 1974", added "fishing vessels and fishing methods" following "fishing gear" and struck out "if this chapter had been in effect during such period" following "area of agreement to fishing".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, see section 4(b) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1100b, 1100b–1 of this title.

§ 1100b–3. Voluntary compliance.

The Secretary shall issue a letter of voluntary compliance to a vessel owner who has had vessels engaged in fishing in the area of agreement at any time subsequent to March 14, 1975, for all vessels of such owner documented under the laws of the United States which meet the requirements of the treaty, and for each of which the vessel owner has deposited and continuously maintained, until the transfer referred to in the following sentence, $1,215 in a special account in a bank or trust company insured by the Federal Deposit Insurance Corporation for the purpose of reimbursing the United States for enforcement expenses as provided in article 6 of the treaty. On or before the issuance of a letter of voluntary compliance the deposited funds referred to above shall be transferred, in the manner provided for in regulations, through the Secretary, to the Offshore Shrimp Fisheries Fund, established pursuant to section 1100b–4 of this title. (Pub. L. 93–242, § 5, Jan. 2, 1974, 87 Stat. 1065, amended Pub. L. 94–58, § 3(d), July 24, 1975, 89 Stat. 267.)

AMENDMENTS

1975—Pub. L. 94–58 substituted "March 14, 1975" for "May 9, 1972", and "$1,215" for "$700".

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective July 24, 1975, see section 4(a) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1100b, 1100b–1, 1100b–2, 1100b–4 of this title.

§ 1100b–4. Offshore Shrimp Fisheries Fund.

(a) Establishment on books of United States Treasury.

There is hereby established on the books of the Treasury a separate fund, the Offshore Shrimp Fisheries Fund, to be used by the Secretary to make payments for enforcement expenses as provided in article VI of the treaty. The fund shall be credited with permit fees collected pursuant to section 1100b–1 of this title for enforcement expenses, funds appropriated under section 1100b–10(a) of this title, amounts transferred through the Secretary from deposits in the special accounts referred to in section 1100b–3 of this title, and amounts collected for minimum penalties pursuant to section 1100b–1 of this title. Any funds remaining in the fund shall remain available for expenditure under this chapter.

(b) Enforcement expenses.

The Secretary of Commerce, through the Secretary of State, shall pay, or cause to be paid, on behalf of the United States the enforcement expenses as provided in article VI of the treaty.

(c) Reimbursement of amounts paid on behalf of United States in carrying out seizure and detention of vessels.

In the event that a vessel owner, master, or other person in charge of a vessel, pays on behalf of the United States the unusual enforcement expenses incurred in carrying out the seizure and detention of a vessel, referred to in article VI of the treaty, and is not assessed a civil penalty under section 1100 b–7 of this title within two years from the date of such seizure in respect to the violation for which the vessel was seized, such vessel owner, master, or other person shall be entitled to reimbursement of amounts so paid. Application for reimbursement shall be made to the Secretary. (Pub. L. 93–242, § 6, Jan. 2, 1974, 87 Stat. 1065, amended Pub. L. 94–58, § 3(e), July 24, 1975, 89 Stat. 267.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–58 added provision relating to the availability for expenditure under this chapter of any funds remaining in the fund.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, see section 4(b) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1100b–3 of this title.

§ 1100b–5. Information and reports.

(a) Logbooks.

Each master or other person in charge of a vessel which is the subject of a permit under this chapter shall keep a logbook in the form and manner prescribed pursuant to the treaty and set forth in regulations.

(b) Additional information; time and form for supplying information to Secretary.

In addition to the logbook, owners of vessels which have permits under this chapter shall supply to the Secretary, in such form and at such times as he may prescribe, any other information necessary in order to carry out the purposes and objectives of the treaty, this chapter or the regulations, which information may include data on fishing beyond the area of agreement in order to determine to the extent possible the full potential of the shrimp fishery.

(c) Confidential nature of information.

Except as otherwise provided in the treaty, information obtained pursuant to this chapter shall be treated as confidential commercial information pursuant to section 552 of Title 5.

(d) Subpena power.

The Secretary shall have the power to require by subpena the production of all such logbooks, records,

or other information required pursuant to this section. The Secretary may delegate the power to sign subpenas and to receive documents.

(e) Judicial enforcement of subpena.

In case of contumacy or refusal to obey a subpena issued to any person, corporation, partnership, or other entity, the Secretary may request the Attorney General to invoke the aid of any district court of the United States or the United States courts of any territory or possession within the jurisdiction of which said person, corporation, partnership, or other entity is found, resides, or transacts business to secure compliance. (Pub. L. 93–242, § 7, Jan. 2, 1974, 87 Stat. 1065.)

§ 1100b–6. Prohibitions.

(a) No vessel owner, master, or other person in charge of a vessel documented under the laws of the United States shall—

(1) engage in fishing in the area of agreement, unless the vessel is the subject of a permit in force pursuant to this chapter

(2) transship shrimp in the area of agreement, unless each vessel engaged in the transshipment is the subject of a permit in force pursuant to this chapter, or is otherwise authorized to fish in the area of agreement pursuant to the treaty;

(3) assault or attempt to prevent any duly authorized officer from boarding, searching, seizing or detaining a vessel in accordance with such officer's duties under the treaty;

(4) engage in fishing in the area of agreement contrary to regulations establishing a procedure for limiting the number of vessels allowed to be present in the area of agreement at any one time to one hundred and sixty in 1975 and one hundred and twenty in 1976 or such other number as may be allowed pursuant to the treaty;

(5) engage in fishing in the area of agreement in contravention of annex II, as it may be modified from time to time pursuant to article II of the treaty, or any regulations issued by the Secretary to implement such annex;

(6) engage in fishing in the area of agreement contrary to regulations establishing a procedure for limiting the number of vessels with permits which may be authorized to fish during any period in 1975 or 1976 as specified in section 1100b–1(a) of this title.

(b) No vessel owner, master, or other person in charge of a vessel documented under the laws of the United States shall—

(1) fail or refuse to keep or provide any logbooks or any other information required pursuant to this chapter, or provide or furnish false logbooks or other information;

(2) violate any other provision of the treaty, this chapter, or any regulations promulgated by the Secretary, the violation of which is not covered by subsection (a) of this section.

(Pub. L. 93–242, § 8, Jan. 2, 1974, 87 Stat. 1066, amended Pub. L. 94–58, § 3(f), July 24, 1975, 89 Stat. 267.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–58, § 3(f)(1)(A), added "vessel owner" preceding "master" in opening par.

Subsec. (a)(4). Pub. L. 94–58, § 3(f)(2), added "in 1975 and one hundred and twenty in 1976" following "one hundred and sixty".

Subsec. (a)(6). Pub. L. 94–58, § 3(f)(1)(C), added subsec. (a)(6).

Subsec. (b). Pub. L. 94–58, § 3(f)(3), added "vessel owner" preceding "master" in opening par.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, see section 4(b) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1100b–2, 1100b–7 of this title.

§ 1100b–7. Penalties.

(a) Civil penalty; maximums; minimum penalty requirement; notice and opportunity for hearing.

Any master or other person in charge of a vessel who violates section 1100b–6 of this title, or any vessel owner whose vessel is involved in such violation, may be assessed a civil penalty by the Secretary, after notice and opportunity for a hearing, of not more than $10,000 for a violation of section 1100b–6(a) of this title and $3,000 for a violation of section 1100b–6(b) of this title. Except as provided in this section, the minimum penalty assessed shall be not less than an amount sufficient to cover the unusual enforcement expenses, if any, incurred by the United States pursuant to article VI of the treaty in connection with such violation: *Provided*, That if the person against whom the penalty has been assessed has paid on behalf of the United States such unusual enforcement expenses, the minimum penalty requirement shall not apply. The amount of any such minimum civil penalty assessed shall be deposited directly into the Offshore Shrimp Fisheries Fund. The amount of any such civil penalty over the minimum penalty may be compromised by the Secretary.

(b) Notification of vessel owner.

The Secretary shall notify any vessel owner involved in a violation of section 1100b–6 of this title of the outcome of any proceeding against the master or other person in charge of the vessel under subsection (a) above.

(c) Penalty equal to value of catch on board and value of gear involved in violation.

The Secretary, after notice and opportunity for hearing, may assess against a vessel owner a civil penalty equal to the value of the catch on board the vessel when detained and the value of the gear involved in a violation of section 1100b–6 of this title. The amount of any such penalty shall be deposited as miscellaneous receipts into the general fund of the Treasury.

(d) Failure to pay penalty; court action.

Upon failure of the party penalized as provided in this section to pay the penalty within thirty days of the assessment thereof, the Secretary may request the Attorney General to commence action in the Federal district court having jurisdiction over the party for such relief as may be appropriate. In any such action for relief, the Secretary's penalty assessment shall be final and unreviewable unless the

penalized party has otherwise sought judicial review thereof.

(e) Personal appearance at hearing.

In any hearing held by the Secretary in connection with the assessment of a civil penalty hereunder, the vessel owner, the master or any other person against whom a penalty may be assessed may appear in person or by counsel at such hearing or in lieu of a personal appearance may submit such affidavits or depositions as he deems necessary to the defense of any charges which may be considered by the Secretary at such hearing. (Pub. L. 93–242, § 9, Jan. 2, 1974, 87 Stat. 1066, amended Pub. L. 94–58, § 3(g), July 24, 1975, 89 Stat. 267.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–58, § 3(g)(1), added "or any vessel owner whose vessel is involved in such violation" following "who violates section 1100b–6 of this title".

Subsec. (b). Pub. L. 94–58, § 3(g)(2), added "against the master or other person in charge of the vessel" following "any proceeding".

Subsec. (c). Pub. L. 94–58, § 3(g)(3), substituted provisions making the vessel owner subject to a civil penalty for violation of any provision of section 1100b–6 for provisions imposing such penalty only in the case of violation of section 1100b–6(a)(1), or involved in a second or subsequent violation of any other provision of 1100b–6(a) by a person against whom a penalty had previously been assessed under subsec. (a) of this section for a violation involving the operation of a vessel owned by the same person as the vessel involved in such second or subsequent violation.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–58 effective upon the entry into force of the Agreement Between the Government of the Federative Republic of Brazil and the Government of the United States of America Concerning Shrimp, signed on March 14, 1975, see section 4(b) of Pub. L. 94–58, set out as a note under section 1100b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1100b–1, 1100b–4 of this title.

§ 1100b–8. Enforcement.

(a) This chapter shall be enforced jointly by the Secretary, the Secretary of the department in which the Coast Guard is operating, and the Secretary of the Treasury.

(b) Any duly authorized law enforcement officer of the Government of Brazil who is exercising responsibility under article V of the treaty shall be impowered to act on behalf of the United States to enforce the provisions of the treaty in the area of agreement as follows: Any such officer may board and search any vessel which he has reasonable cause to believe has violated any provisions of the treaty. If after boarding and searching such vessel the officer continues to have reasonable cause to believe that a violation has been committed, he may seize and detain the vessel for the sole purpose of delivering it, as soon as practicable, to an agent of the United States Government at the nearest port to the place of seizure or any other place which is mutually agreed upon by the Government of Brazil and the Secretary of State. (Pub. L. 93–242, § 10, Jan. 2, 1974, 87 Stat. 1067.)

§ 1100b–9. Regulations.

In addition to any specific authority contained in this chapter, the Secretary is authorized to issue all regulations necessary to carry out the purposes and objectives of the treaty and this chapter. Prior to the issuance of any regulations dealing with the marking of vessels of with the use or radiotelephone frequencies, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating. (Pub. L. 93–242, § 11, Jan. 2, 1974, 87 Stat. 1067.)

§ 1100b–10. Authorization of appropriations.

(a) There is hereby authorized to be appropriated such amounts as are necessary for enforcement expenses pursuant to article VI of the treaty, to be deposited in the Offshore Shrimp Fisheries Fund.

(b) There is also hereby authorized to be appropriated such amounts as are necessary for domestic enforcement expenses and the expenses of administering the provisions of the treaty, this chapter, and the regulations, to be available until expended, when so provided in appropriation acts. So much of the permit fees as are identified for administrative costs shall be deposited as miscellaneous receipts to the general fund of the Treasury. (Pub. L. 93–242, § 12, Jan. 2, 1974, 87 Stat. 1068.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1100b–4 of this title.

Chapter 23.—NATIONAL WILDERNESS PRESERVATION SYSTEM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 272d, 273d, 460aa–1, 460dd–8, 460gg–1 of this title.

§ 1132. Extent of System.

WILDERNESS AREAS

Site of Wilderness	*Date of Designation*
Agua Tibia Wilderness, Cleveland National Forest, California	Jan. 3, 1975
Beaver Creek Wilderness, Daniel Boone National Forest, Kentucky	Jan. 3, 1975
* * * * *	
Blackbeard Island Wilderness, Blackbeard Island National Wildlife Refuge, Georgia	Jan. 3, 1975
* * * * *	
Bosque del Apache Wilderness, Bosque del Apache National Wildlife Refuge, New Mexico	Jan. 3, 1975
Bradwell Bay Wilderness, Appalachicola National Forest, Florida	Jan. 3, 1975
Breton Wilderness, Breton National Wildlife Refuge, Louisiana	Jan. 3, 1975
Brigantine Wilderness, Brigantine National Wildlife Refuge, New Jersey	Jan. 3, 1975
Bristol Cliffs Wilderness, Green Mountain National Forest, Vermont	Jan. 3, 1975
Caney Creek Wilderness, Ouachita National Forest, Arkansas	Jan. 3, 1975
Cape Romain Wilderness, Cape Romain National Wildlife Refuge, South Carolina	Jan. 3, 1975
Cedar Keys Wilderness, Cedar Keys National Wildlife Refuge, Florida	Aug. 7, 1972
Chamisso Wilderness, Chamisso National Wildlife Refuge, Alaska	Jan. 3, 1975
Chase Lake Wilderness, Chase Lake National Wildlife Refuge, North Dakota	Jan. 3, 1975
Cohutta Wilderness, Chattahoochee and Cherokee National Forests, Georgia and Tennessee	Jan. 3, 1975
* * * * *	

WILDERNESS AREAS—Continued

Site of Wilderness	Date of Designation
Dolly Sods Wilderness, Monongahela National Forest, West Virginia	Jan. 3, 1975
Eagle Cap Wilderness (Additional Lands), Wallowa and Whitman National Forests, Oregon	Oct. 21, 1972
Ellicott Rock Wilderness, Sumter, Nantahala, and Chattahoochee National Forests, South Carolina, North Carolina, and Georgia	Jan. 3, 1975
Emigrant Wilderness, Stanislaus National Forest, California	Jan. 3, 1975
Farallon Wilderness, Farallon National Wildlife Refuge, California	Dec. 26, 1974
Flat Tops Wilderness, Routt and White River National Forest, Colorado	Dec. 12, 1975
Florida Keys Wilderness, Key Deer, Great White Heron and Key West National Wildlife Refuges, Florida	Jan. 3, 1975
* * * * *	
Gee Creek Wilderness, Cherokee National Forest, Tennessee	Jan. 3, 1975
* * * * *	
James River Face Wilderness, Jefferson National Forest, Virginia	Jan. 3, 1975
Joyce Kilmer-Slickrock Wilderness, Nantahala and Cherokee National Forests, North Carolina and Tennessee	Jan. 3, 1975
Lassen Volcanic Wilderness, Lassen Volcanic National Park, California	Oct. 19, 1972
Lava Beds Wilderness, Lava Beds National Monument, California	Oct. 13, 1972
Lostwood Wilderness, Lostwood National Wildlife Refuge, North Dakota	Jan. 3, 1975
Lye Brook Wilderness, Green Mountain National Forest, Vermont	Jan. 3, 1975
* * * * *	
Mission Mountains Wilderness, Flathead National Forest, Montana	Jan. 3, 1975
* * * * *	
Moosehorn Wilderness (Baring Unit), Moosehorn National Wildlife Refuge, Maine	Jan. 3, 1975
* * * * *	
Okefenokee Wilderness, Okefenokee National Wildlife Refuge, Georgia	Oct. 1, 1974
* * * * *	
Otter Creek Wilderness Monongahela National Forest, West Virginia	Jan. 3, 1975
* * * * *	
Pine Mountain Wilderness, Prescott and Tonto National Forests, Arizona	Feb. 15, 1972
Presidential Range-Dry River Wilderness, White Mountain National Forest, New Hampshire	Jan. 3, 1975
Rainbow Lake Wilderness, Chequamegon National Forest, Wisconsin	Jan. 3, 1975
* * * * *	
St. Marks Wilderness, St. Marks Wildlife Refuge, Florida	Jan. 3, 1975
* * * * *	
Scapegoat Wilderness, Helena, Lolo, and Lewis and Clark National Forests, Montana	Aug. 20, 1972
* * * * *	
Sipsey Wilderness, Bankhead National Forest, Alabama	Jan. 3, 1975
Sycamore Canyon Wilderness, Coconino, Kaibab, and Prescott National Forests, Arizona	Mar. 6, 1972
* * * * *	
Upper Buffalo Wilderness, Ozark National Forest, Arkansas	Jan. 3, 1975
* * * * *	
Washakie Wilderness (former South Absaroka Wilderness and Stratified Primitive Area), Shoshone National Forest, Wyoming	Oct. 9, 1972
* * * * *	
Weminuche Wilderness (former San Juan and Upper Rio Grande Primitive Area)	Jan. 3, 1975
West Sister Island Wilderness, West Sister Island National Wildlife Refuge, Ohio	Jan. 3, 1975
* * * * *	
Wolf Island Wilderness, Wolf Island National Wildlife Refuge, Georgia	Jan. 3, 1975

CHERRY CREEK EXCLUSION AND HOOVER WILDERNESS; PRESERVATION AS AND ADDITION TO WILDERNESS; REVIEW; RECOMMENDATIONS TO CONGRESS

Pub. L. 93–632; § 2(b), Jan. 3, 1975, 88 Stat. 2154, provided in part that: "The area commonly called the Cherry Creek exclusion, depicted on such map [entitled 'Emigrant Wilderness—Proposed, 1970' on file in the Office of the Chief, Forest Service, Department of Agriculture] as Exclusion 2 and comprising approximately six thousand and forty-two acres, shall, in accordance with the provisions of subsection 3(d) of the Wilderness Act [subsec. (d) of this section], be reviewed by the Secretary of Agriculture as to its suitability or nonsuitability for preservation as wilderness in conjunction with his review of the potential addition to the Hoover Wilderness in Toiyabe National Forest. The recommendations of the President to the Congress in the potential addition to the Hoover Wilderness shall be accompanied by the President's recommendations on the Cherry Creek exclusion. The previous classification of the Emigrant Basin Primitive Area is hereby abolished with the exception of said Exclusion 2."

WILDERNESS AREAS IN EASTERN HALF OF UNITED STATES; CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY FOR DESIGNATION OF AREAS

Pub. L. 93–622, § 2, Jan. 3, 1975, 88 Stat. 2096, provided that:

"(a) The Congress finds that—

"(1) in the more populous eastern half of the United States there is an urgent need to identify, study, designate, and preserve areas for addition to the National Wilderness Preservation System;

"(2) in recognition of this urgent need, certain areas in the national forest system in the eastern half of the United States were designated by the Congress as wilderness in the Wilderness Act (78 Stat. 890) [this chapter]; certain areas in the national wildlife refuge system in the eastern half of the United States have been designated by the Congress as wilderness or recommended by the President for such designation, and certain areas in the national park system in the eastern half of the United States have been recommended by the President for designation as wilderness; and

"(3) additional areas of wilderness in the more populous eastern half of the United States are increasingly threatened by the pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, and enhancement of the areas' wilderness character.

"(b) Therefore, the Congress finds and declares that it is in the national interest that these and similar areas in the eastern half of the United States be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, and primitive recreation for the benefit of all of the American people of present and future generations."

WILDERNESS STUDY AREAS; REVIEW, REPORT, AND RECOMMENDATIONS FOR PRESERVATION AS WILDERNESS; DESIGNATION OF NATIONAL FOREST LANDS EAST OF 100th MERIDIAN AS STUDY AREAS AND FUTURE PRESERVATION AS WILDERNESS; MANAGEMENT OF EXISTING MULTIPLE-USE, SUSTAINED YIELD PROGRAMS; BOUNDARY CHANGES

Pub. L. 93–622, § 4, Jan. 3, 1975, 88 Stat. 2098, provided that:

"(a) In furtherance of the purposes of the Wilderness Act [this chapter] and in accordance with the provisions of subsection 3(d) of that Act [subsec. (d) of this section], the Secretary of Agriculture (hereinafter referred to as the 'Secretary') shall review, as to its suitability or nonsuitability for preservation as wilderness, each area designated by or pursuant to subsection (b) of this section and report his findings to the President. The President shall advise the United States Senate and House of Representatives of his recommendations with respect to the designation as wilderness of each such area on which the review has been completed.

"(b) Areas to be reviewed pursuant to this section (hereinafter referred to as 'wilderness study areas'), as generally depicted on maps appropriately referenced, dated April 1974, include—

"(1) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately five thousand seven hundred acres and are generally depicted on a map entitled 'Belle Starr Cave Wilderness Study Area';

"(2) certain lands in the Ouachita National Forest, Arkansas, which comprise approximately five thousand five hundred acres and are generally depicted on a map entitled 'Dry Creek Wilderness Study Area';

"(3) certain lands in the Ozark National Forest, Arkansas, which comprise approximately two thousand one hundred acres and are generally depicted on a map entitled 'Richland Creek Wilderness Study Area';

"(4) certain lands in the Appalachicola National Forest, Florida, which comprise approximately one thousand one hundred acres and are generally depicted as the 'Sopchoppy River Wilderness Study Area' on a map entitled 'Bradwell Bay Wilderness Area—Proposed';

"(5) certain lands in the Hiawatha National Forest, Michigan, which comprise approximately five thousand four hundred acres and are generally depicted on a map entitled 'Rock River Canyon Wilderness Study Area';

"(6) certain lands in the Ottawa National Forest, Michigan, which comprise approximately thirteen thousand two hundred acres and are generally depicted on a map entitled 'Sturgeon River Wilderness Study Area';

"(7) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately one thousand one hundred acres and are generally depicted on a map entitled 'Craggy Mountain Wilderness Study Area';

"(8) certain lands in the Francis Marion National Forest, South Carolina, which comprise approximately one thousand five hundred acres and are generally depicted on a map entitled 'Wambaw Swamp Wilderness Study Area';

"(9) certain lands in the Jefferson National Forest, Virginia, which comprise approximately four thousand acres and are generally depicted on a map entitled 'Mill Creek Wilderness Study Area';

"(10) certain lands in the Jefferson National Forest, Virginia, which comprise approximately eight thousand four hundred acres and are generally depicted on a map entitled 'Mountain Lake Wilderness Study Area';

"(11) certain lands in the Jefferson National Forest, Virginia, which comprise approximately five thousand acres and are generally depicted on a map entitled 'Peters Mountain Wilderness Study Area';

"(12) certain lands in the George Washington National Forest, Virginia, which comprise approximately six thousand seven hundred acres and are generally depicted on a map entitled 'Ramsey's Draft Wilderness Study Area';

"(13) certain lands in the Chequamegon National Forest, Wisconsin, which comprise approximately six thousand three hundred acres and are generally depicted on a map entitled 'Flynn Lake Wilderness Study Area';

"(14) certain lands in the Chequamegon National Forest, Wisconsin, which comprise approximately four thousand two hundred acres and are generally depicted on a map entitled 'Round Lake Wilderness Study Area';

"(15) certain lands in the Monongahela National Forest, West Virginia, which comprise approximately thirty-six thousand three hundred acres and are generally depicted on a map entitled 'Cranberry Wilderness Study Area';

"(16) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately four thousand five hundred acres and are generally depicted on a map entitled 'Big Frog Wilderness Study Area'; and

"(17) certain lands in the Cherokee National Forest, Tennessee, which comprise approximately fourteen thousand acres and are generally depicted as the 'Citico Creek Area' on a map entitled 'Joyce Kilmer-Slickrock Wilderness Area—Proposed';

"(c) Reviews shall be completed and the President shall make his recommendations to Congress within five years after enactment of this Act [Jan. 3, 1975].

"(d) Congress may, upon the recommendation of the Secretary of Agriculture or otherwise, designate as study areas, national forest system lands east of the 100th meridian other than those areas specified in subsection (b) of this section, for review as to suitability or nonsuitability for preservation as wilderness. Any such area subsequently designated as a wilderness study area after the enactment of this Act shall have its suitability or nonsuitability for preservation as wilderness submitted to Congress within ten years from the date of designation as a wilderness study area. Nothing in this Act shall be construed as limiting the authority of the Secretary of Agriculture to carry out management programs, development, and activities in accordance with the Multiple-Use Sustained-Yield Act of 1960 (74 Stat. 215, 16 U.S.C. 528–531) within areas not designated for review in accordance with the provisions of this Act.

"(e) Nothing herein contained shall limit the President in proposing, as part of his recommendations to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value. Any recommendation of the President to the effect that such area or portion thereof should be designated as 'wilderness' shall become effective only if so provided by an Act of Congress."

AUTHORIZATION OF APPROPRIATIONS FOR ACQUISITION BY PURCHASE, ETC., OF AREAS DESIGNATED AS WILDERNESS AND REVIEW OF AREAS DESIGNATED AS WILDERNESS STUDY AREAS

Pub. L. 93–622, § 9, Jan. 3, 1975, 88 Stat. 2102, provided that: "There are hereby authorized to be appropriated an amount not to exceed $5,000,000 for the acquisition by purchase, condemnation, or otherwise of lands, waters, or interests therein located in areas designated as wilderness pursuant to section 3 of this Act and an amount not to exceed $1,700,000 for the purpose of conducting a review of wilderness study areas designated by section 4 of this Act."

INDIAN PEAKS AREA, COLORADO, PRESERVATION AS WILDERNESS; REVIEW; REPORT TO PRESIDENT; WILDERNESS DESIGNATION; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 92–528, Oct. 21, 1972, 86 Stat. 1050, provided: "That (a) the Secretary of Agriculture, in accordance with the provisions of subsection 3(d) of the Wilderness Act of September 3, 1964 (78 Stat. 892) [subsec. (d) of this section] relating to public notice, public hearings, and review by State and other agencies, shall review, as to its suitability or nonsuitability for preservation as wilderness, the area (or any portion thereof) located partially in Arapaho National Forest and partially in Roosevelt National Forest, containing approximately seventy-one thousand acres, lying generally south of the southern boundary of Rocky Mountain National Park, Colorado, and commonly referred to as the 'Indian Peaks Area,' as generally depicted on a map entitled 'Indian Peaks Study Area,' dated October 4, 1972, and shall report his findings to the President. The President shall advise the United States Senate and the House of Representatives of his recommendations with respect to the designation of such

area or portion thereof as 'wilderness,' together with maps and a definition of boundaries. Any recommendation of the President to the effect that such area or portion thereof should be designated as 'wilderness' shall become effective only if so provided by an Act of Congress.

"(b) The review required by this Act, including any reports and recommendations with respect thereto, shall, except to the extent otherwise provided in this Act, be conducted in accordance with the applicable provisions of the Wilderness Act [this chapter].

"SEC. 2. There is hereby authorized to be appropriated such amount as may be necessary to carry out the provisions of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 228i–1, 271e, 272d, 273d, 459i–8, 460m–13, 460z–11, 460aa–4, 460dd–8, 460gg–5, 698d, 698l of this title.

§ 1133. Use of wilderness areas.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460gg–8 of this title.

Chapter 24.—CONSERVATION AND PROTECTION OF FUR SEALS, OTHER WILDLIFE, AND SEA OTTERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1402 of this title.

§ 1156. North Pacific Fur Seal Commission; appointment of Commissioner and Deputy Commissioner; duties, compensation, and travel expenses.

ALTERNATE UNITED STATES COMMISSIONERS

Secretary of State authorized to designate Alternate United States Commissioners, see sections 2672a and 2672b of Title 22, Foreign Relations and Intercourse.

Chapter 25.—JELLYFISH OR SEA NETTLES, OTHER SUCH PESTS, AND SEAWEED IN COASTAL WATERS: CONTROL OR ELIMINATION

§ 1203. Authorization of appropriations.

There is authorized to be appropriated not to exceed $500,000 for the fiscal year ending June 30, 1968, $750,000 for the fiscal year ending June 30, 1969, $1,000,000 for the period beginning July 1, 1969, and ending June 30, 1973, and $400,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and June 30, 1977. (As amended Pub. L. 92–604, Oct. 31, 1972, 86 Stat. 1493.)

AMENDMENTS

1972—Pub. L. 92–604 authorized appropriations of $400,000 for fiscal years ending June 30, 1974, 1975, 1976, and 1977.

Chapter 25B.—REEFS FOR MARINE LIFE CONSERVATION [NEW]

Sec.

1220. State applications for Liberty ships for use as offshore reefs.
(a) Conservation of marine life.
(b) Manner and form of applications; minimum requirements.
(c) Copies to Federal officers for official comments and views.
1220a. Transfer of title; terms and conditions.
1220b. Liberty ships available; number; equitable administration.
1220c. Denial of applications; finality of decision.

§ 1220. State applications for Liberty ships for use as offshore reefs.

(a) Conservation of marine life.

Any State may apply to the Secretary of Commerce (hereafter referred to in this chapter as the "Secretary") for Liberty ships which, but for the operation of this chapter, would be designated by the Secretary for scrapping if the State intends to sink such ships for use as an offshore artificial reef for the conservation of marine life.

(b) Manner and form of applications; minimum requirements.

A State shall apply for Liberty ships under this chapter in such manner and form as the Secretary shall prescribe, but such application shall include at least (1) the location at which the State proposes to sink the ships, (2) a certificate from the Administrator, Environmental Protection Agency, that the proposed use of the particular vessel or vessels requested by the State will be compatible with water quality standards and other appropriate environmental protection requirements, and (3) statements and estimates with respect to the conservation goals which are sought to be achieved by use of the ships.

(c) Copies to Federal officers for official comments and views.

Before taking any action with respect to an application submitted under this chapter, the Secretary shall provide copies of the application to the Secretary of the Interior, the Secretary of Defense, and any other appropriate Federal officer, and shall consider comments and views of such officers with respect to the application. (Pub. L. 92–402, § 3, Aug. 22, 1972, 86 Stat. 618.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 92–402 which enacted this chapter, amended section 1244(a) of Title 46, and authorized certain maritime program appropriations not classified to the Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1220a of this title.

§ 1220a. Transfer of title; terms and conditions.

If, after consideration of such comments and views as are received pursuant to section 1220(c) of this title, the Secretary finds that the use of Liberty ships proposed by a State will not violate any Federal law, contribute to degradation of the marine environment, create undue interference with commercial fishing or navigation, and is not frivolous, he shall transfer without consideration to the State all right, title, and interest of the United States in and to any Liberty ships which are available for transfer under this chapter if—

(1) the State gives to the Secretary such assurances as he deems necessary that such ships will be utilized and maintained only for the purposes stated in the application and, when sunk, will be charted and marked as a hazard to navigation;

(2) the State agrees to secure any licenses or permits which may be required under the provisions of any other applicable Federal law;

(3) the State agrees to such other terms and conditions as the Secretary shall require in order

to protect the marine environment and other interests of the United States; and

(4) the transfer would be at no cost to the Government with the State taking delivery of such Liberty ships at fleetside of the National Defense Reserve Fleet in an "as is—where is" condition.

(Pub. L. 92–402, § 4, Aug. 22, 1972, 86 Stat. 618.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. 92–402 which enacted this chapter, amended section 1244(a) of Title 46, and authorized certain maritime program appropriations not classified to the Code.

§ 1220b. Liberty ships available; number; equitable administration.

A State may apply for more than one Liberty ship under this chapter. The Secretary shall, however, taking into account the number of Liberty ships which may be or become available for transfer under this chapter, administer this chapter in an equitable manner with respect to the various States. (Pub. L. 92–402, § 5, Aug. 22, 1972, 86 Stat. 618.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 92–402 which enacted this chapter, amended section 1244(a) of Title 46, and authorized certain maritime program appropriations not classified to the Code.

§ 1220c. Denial of applications; finality of decision.

A decision by the Secretary denying any application for a Liberty ship under this chapter is final. (Pub. L. 92–402, § 6, Aug. 22, 1972, 86 Stat. 618.)

REFERENCES IN TEXT

"This chapter", referred to in the text, read in the original "this Act", meaning Pub. L. 92–402 which enacted this chapter, amended section 1244(a) of Title 46, and authorized certain maritime program appropriations not classified to the Code.

Chapter 28.—WILD AND SCENIC RIVERS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 460gg–3 of this title.

§ 1274. Component rivers and adjacent lands; establishment of boundaries; classification; development plans.

(a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

* * * * *

(9) LOWER SAINT CROIX, MINNESOTA AND WISCONSIN.—The segment between the dam near Taylors Falls and its confluence with the Mississippi River: *Provided*, (i) That the upper twenty-seven miles of this river segment shall be administered by the Secretary of the Interior; and (ii) That the lower twenty-five miles shall be designated by the Secretary upon his approval of an application for such designation made by the Governors of the State of Minnesota and Wisconsin.

(10) CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA.—The Segment from 0.8 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with Chattooga upstream 7.3 miles, as generally depicted on the boundary map entitled "Proposed Wild and Scenic Chattooga River and Corridor Boundary", dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from May 10, 1974: *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than $2,000,000 for the acquisition of lands and interests in lands and not more than $809,000 for development.

(11) RAPID RIVER, IDAHO.—The segment from the headwaters of the main stem to the national forest boundary and the segment of the West Fork from the wilderness boundary downstream to the confluence with the main stem, as a wild river.

(12) SNAKE, IDAHO AND OREGON.—The segment from Hells Canyon Dam downstream to Pittsburgh Landing, as a wild river; and the segment from Pittsburgh Landing downstream to an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, as a scenic river.

* * * * *

(As amended Pub. L. 92–560, § 2, Oct. 25, 1972, 86 Stat. 1174; Pub. L. 93–279, § 1(a), May 10, 1974, 88 Stat. 122; Pub. L. 94–199, § 3(a), Dec. 31, 1975, 89 Stat. 1117.)

AMENDMENTS

1975—Subsecs. (a)(11), (12). Pub. L. 94–199 added subsecs. (a)(11) and (12).

1974—Subsec. (a)(10). Pub. L. 93–279 added par. (10).

1972—Subsec. (a)(9). Pub. L. 92–560 added par. (9).

SHORT TITLE

Section 1 of Pub. L. 92–560 provided: "That this Act [which enacted subsec. (a)(9) of this section and provisions set out as notes under this section] may be cited as the 'Lower Saint Croix River Act of 1972'."

ADMINISTRATION OF SNAKE RIVER AND RAPID RIVER AREAS

Section 3(b) of Pub. L. 94–199 provided that: "The segments of the Snake River and the Rapid River designated as wild or scenic river areas by this Act [sections 460gg to 460gg–13 of this title] shall be administered by the Secretary in accordance with the provisions of the Wild and Scenic Rivers Act (82 Stat. 906), as amended [section 1271 et seq. of this title] and the Secretary shall establish detailed boundaries of the Snake River segments thereof in accordance with subsection 3(b) of that Act [subsec. (b) of this section]: *Provided*, That the Secretary shall establish a corridor along the segments of the Rapid River and may not undertake or permit to be undertaken any activities on adjacent public lands which would impair the water quality of the Rapid River segment: *Provided further*, That the Secretary is authorized to make such minor boundary revisions in the corridors as he deems necessary for the provision of such facilities as are permitted under the applicable provisions of the Wild and Scenic Rivers Act (82 Stat. 906)."

LOWER SAINT CROIX, MINNESOTA AND WISCONSIN

Section 3 of Pub. L. 92–560 provided that: "The Secretary of the Interior shall, within one year following the date of enactment of this Act [Oct. 25, 1972], take with respect to the Lower Saint Croix River segment, such actions as is provided for under section 3(b) of the Wild and Scenic Rivers Act [subsec. (b) of this section]: *Provided*, That (a) the action required by such section shall be undertaken jointly by the Secretary and the appropriate agencies of the affected States; (b) the development plan required by such section shall be construed to be a comprehensive master plan which shall include,

but not be limited to, a determination of the lands, waters, and interests therein to be acquired, developed, and administered by the agencies or political subdivisions of the affected States; and (c) such development plan shall provide for State administration of the lower twenty-five miles of the Lower Saint Croix River segment and for continued administration by the States of Minnesota and Wisconsin of such State parks and fish hatcheries as now lie within the twenty-seven-mile segment to be administered by the Secretary of the Interior."

LAND ACQUISITION

Section 4 of Pub. L. 92–560 provided that: "Notwithstanding any provision of the Wild and Scenic Rivers Act [this chapter] which limits acquisition authority within a river segment to be administered by a Federal agency, the States of Minnesota and Wisconsin may acquire within the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior such lands as may be proposed for their acquisition, development, operation, and maintenance pursuant to the development plan required by section 3 of this Act [this section]."

NAVIGATION AIDS

Section 5 of Pub. L. 92–560 provided that: "Nothing in this Act [see Short Title note hereunder] shall be deemed to impair or otherwise affect such statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements."

AUTHORIZATION OF APPROPRIATIONS; LIMITATION

Section 6 of Pub. L. 92–560, as amended by Pub. L. 93–621, § 2, Jan. 3, 1975, 88 Stat. 2096, provided that:

"(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [see Short Title note hereunder], but not to exceed $19,000,000 for the acquisition and development of lands and interests therein within the boundaries of the twenty-seven-mile segment of the Lower Saint Croix River segment to be administered by the Secretary of the Interior.

"(b) No funds otherwise authorized to be appropriated by this section shall be expended by the Secretary of the Interior until he has determined that the States of Minnesota and Wisconsin have initiated such land acquisition and development as may be proposed pursuant to the development plan required by section 3 of this Act [this section], and in no event shall the Secretary of the Interior expend more than $2,550,000 of the funds authorized to be appropriated by this section in the first fiscal year following completion of the development plan required by section 3 of this Act [this section]. The balance of funds authorized to be appropriated by this section shall be expended by the Secretary of the Interior at such times as he finds that the States of Minnesota and Wisconsin have made satisfactory progress in their implementation of the development plan required by section 3 of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 277, 460gg, 460gg–4, 1280, 1287 of this title.

§ 1275. Additions to national wild and scenic rivers system.

(a) Reports by Secretaries of Interior and Agriculture; recommendations to Congress; contents of reports.

The Secretary of the Interior or, where national forest lands are involved, the Secretary of Agriculture or, in appropriate cases, the two Secretaries jointly shall study and submit to the President reports on the suitability or nonsuitability for addition to the national wild and scenic rivers system of rivers which are designated herein or hereafter by the Congress as potential additions to such system. The President shall report to the Congress his recommendations and proposals with respect to the designation of each such river or section thereof under this chapter. Such studies shall be completed and such reports shall be made to the Congress with respect to all rivers named in section 1276(a) (1) through (27) of this title no later than October 2, 1978. In conducting these studies the Secretary of the Interior and the Secretary of Agriculture shall give priority to those rivers (i) with respect to which there is the greatest likelihood of developments which, if undertaken, would render the rivers unsuitable for inclusion in the national wild and scenic rivers system, and (ii) which possess the greatest proportion of private lands within their areas. Every such study and plan shall be coordinated with any water resources planning involving the same river which is being conducted pursuant to the Water Resources Planning Act.

Each report, including maps and illustrations, shall show among other things the area included within the report; the characteristics which do or do not make the area a worthy addition to the system; the current status of land ownership and use in the area; the reasonably foreseeable potential uses of the land and water which would be enhanced, foreclosed, or curtailed if the area were included in the national wild and scenic rivers system; the Federal agency (which in the case of a river which is wholly or substantially within a national forest, shall be the Department of Agriculture) by which it is proposed the area, should it be added to the system, be administered; the extent to which it is proposed that such administration, including the costs thereof, be shared by State and local agencies; and the estimated cost to the United States of acquiring necessary lands and interests in land and of administering the area, should it be added to the system. Each such report shall be printed as a Senate or House document.

* * * * *

(As amended Pub. L. 93–279, § 1(b) (1), May 10, 1974, 88 Stat. 122; Pub. L. 93–621, § 1(d), Jan. 3, 1975, 88 Stat. 2096.)

REFERENCES IN TEXT

The Water Resources Planning Act, referred to in text, is Pub. L. 89–80, July 22, 1965, 79 Stat. 244, which is classified to section 1962 et seq. of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (a). Pub. L. 93–621 designated the provision relating to the developments, which, if undertaken, would render the rivers unsuitable for inclusion in the system as cl. (i), and added cl. (ii).

1974—Subsec. (a). Pub. L. 93–279, in the first paragraph, substituted provisions requiring submission of reports to the President on the suitability or nonsuitability for addition to the national wild and scenic river system of rivers designated by Congess as potential additions to such system, and submission by President of recommendations and proposals to the Congress, for provisions for submission of proposals to the President and the Congress, struck out reference to section 1273(b) of this title and administration by an agency of the United States, added provisions that the studies relating to rivers named in section 1276(a) of this title be completed by Oct. 2, 1978, and that the Secretary of the Interior and the Secretary of Agriculture give priority to rivers which may be unsuitable for inclusion in the national wild and scenic river system if developments were undertaken, and in the second paragraph, substantially incorporated the existing provisions with minor changes.

§ 1276. Rivers constituting potential additions to national wild and scenic rivers system.

(a) Enumeration of designated rivers.

The following rivers are hereby designated for potential addition to the national wild and scenic river system:

* * * * *

(28) American, California: The North Fork from the Cedars to the Auburn Reservoir.

(29) Au Sable, Michigan: The segment downstream from Foot Dam to Oscoda, and upstream from Loud Reservoir to its source, including its principal tributaries and excluding Mio and Bamfield Reservoirs.

(30) Big Thompson, Colorado: The segment from its source to the boundary of Rocky Mountain National Park.

(31) Cache la Poudre, Colorado: Both forks from their sources to their confluence, thence the Cache la Poudre to the eastern boundary of Roosevelt National Forest.

(32) Cahaba, Alabama: The segment from its junction with United States Highway 31 south of Birmingham downstream to its junction with United States Highway 80 west of Selma.

(33) Clark's Fork, Wyoming: The segment from the Clark's Fork Canyon to the Crandall Creek Bridge.

(34) Colorado, Colorado and Utah: The segment from its confluence with the Dolores River, Utah, upstream to a point 19.5 miles from the Utah-Colorado border in Colorado.

(35) Conejos, Colorado: The three forks from their sources to their confluence, thence the Conejos to its first junction with State Highway 17, excluding Platoro Reservoir.

(36) Elk, Colorado: The segment from its source to Clark.

(37) Encampment, Colorado: The Main Fork and West Fork to their confluence, thence the Encampment to the Colorado-Wyoming border, including the tributaries and headwaters.

(38) Green, Colorado: The entire segment within the State of Colorado.

(39) Gunnison, Colorado: The segment from the upstream (southern) boundary of the Black Canyon of the Gunnison National Monument to its confluence with the North Fork.

(40) Illinois, Oklahoma: The segment from Tenkiller Ferry Reservoir upstream to the Arkansas-Oklahoma border, including the Flint and Barren Fork Creeks.

(41) John Day, Oregon: The main stem from Service Creek Bridge (at river mile 157) downstream to Tumwater Falls (at river mile 10).

(42) Kettle, Minnesota: The entire segment within the State of Minnesota.

(43) Los Pinos, Colorado: The segment from its source, including the tributaries and headwaters within the San Juan Primitive Area, to the northern boundary of the Granite Peak Ranch.

(44) Manistee, Michigan: The entire river from its source to Manistee Lake, including its principal tributaries and excluding Tippy and Hodenpyl Reservoirs.

(45) Nolichuckey, Tennessee and North Carolina: The entire main stem.

(46) Owyhee, South Fork, Oregon: The main stem from the Oregon-Idaho border downstream to the Owyhee Reservoir.

(47) Piedra, Colorado: The Middle Fork and East Fork from their sources to their confluence, thence the Piedra to its junction with Colorado Highway 160, including the tributaries and headwaters on national forest lands.

(48) Shepaug, Connecticut: The entire river.

(49) Sipsey Fork, West Fork, Alabama: The segment, including its tributaries, from the impoundment formed by the Lewis M. Smith Dam upstream to its source in the William B. Bankhead National Forest.

(50) Snake, Wyoming: The segment from the southern bounaries of Teton National Park to the entrance to Palisades Reservoir.

(51) Sweetwater, Wyoming: The segment from Wilson Bar downstream to Spring Creek.

(52) Tuolumne, California: The main river from its source on Mount Dana and Mount Lyell in Yosemite National Park to Don Pedro Reservoir.

(53) Upper Mississippi, Minnesota: The segment from its source at the outlet of Itasca Lake to its junction with the northwestern boundary of the city of Anoka.

(54) Wisconsin, Wisconsin: The segment from Prairie du Sac to its confluence with the Mississippi River at Prairie du Chien.

(55) Yampa, Colorado: The segment within the boundaries of the Dinosaur National Monument.

(56) Dolores, Colorado: The segment of the main stem from Rico upstream to its source, including its headwaters; the West Dolores from its source, including its headwaters, downstream to its confluence with the main stem; and the segment from the west boundary, section 2, township 38 north, range 16 west, NMPM, below the proposed McPhee Dam, downstream to the Colorado-Utah border, excluding the segment from one mile above Highway 90 to the confluence of the San Miguel River.

(57) Snake, Washington, Oregon, and Idaho: the segment from an eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette meridian, downstream to the town of Asotin, Washington.

(b) Studies and reports.

(1) The studies of rivers named in subparagraphs (28) through (55) of subsection (a) of this section shall be completed and reports thereon submitted by not later than October 2, 1979: *Provided*, That with respect to the rivers named in subparagraphs (33), (50), and (51), the Secretaries shall not commence any studies until (i) the State legislature has acted with respect to such rivers or (ii) one year from January 3, 1975, whichever is earlier.

(2) The study of the river named in subparagraph (56) of subsection (a) of this section shall be completed and the report thereon submitted by not later than January 3, 1976.

(3) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (28) through (56) such

sums as may be necessary, but not more than $2,175,000.

(c) State participation.

The study of any of said rivers shall be pursued in as close cooperation with appropriate agencies of the affected State and its political subdivisions as possible, shall be carried on jointly with such agencies if request for such joint study is made by the State and shall include a determination of the degree to which the State or its political subdivisions might participate in the preservation and administration of the river should it be proposed for inclusion in the national wild and scenic rivers system.

(d) Continuing consideration by Federal agencies to potential national, wild, scenic and recreational river areas.

In all planning for the use and development of water and related land resources, consideration shall be given by all Federal agencies involved to potential national wild, scenic and recreational river areas, and all river basin and project plan reports submitted to the Congress shall consider and discuss any such potentials. The Secretary of the Interior and the Secretary of Agriculture shall make specific studies and investigations to determine which additional wild, scenic and recreational river areas within the United States shall be evaluated in planning reports by all Federal agencies as potential alternative uses of the water and related land resources involved. (As amended Pub. L. 93–279, § 1(b)(2), May 10, 1974, 88 Stat. 123; Pub. L. 93–621, § 1(a), (b), Jan. 3, 1975, 88 Stat. 2094, 2095; Pub. L. 94–199, § 5(a), Dec. 31, 1975, 89 Stat. 1118.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 94–199 added par. (57).

Pub. L. 93–621, § 1(a), added pars. (28) to (56).

Subsec. (b). Pub. L. 93–621, § 1(b), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 93–621, § 1(b), redesignated subsec. (b) as (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 93–621, § 1(b), redesignated subsec. (c) as (d).

1974—Subsec. (b) Pub. L. 93–279 redesignated subsec. (c) as subsec. (b) Former subsec. (b) relating to the study of rivers named in subsec. (a) of this section for inclusion in the national wild and scenic river system and submission of reports to the President and the Congress, was incorporated in section 1275(a) of this title.

Subsec. (c). Pub. L. 93–279 redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (d). Pub. L. 93–279 redesignated subsec. (d) as (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg–13, 1275, 1278 to 1280, 1283 of this title.

§ 1278. Restrictions on water resources projects.

* * * * *

(b) Construction projects on rivers designated for potential addition to the system.

The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act, as amended, on or directly affecting any river which is listed in section 1276(a) of this title, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval—

(i) during the ten-year period following October 2, 1968, or for a three complete fiscal year period following any Act of Congress designating any river for potential addition to the national wild and scenic rivers system, whichever is later, unless, prior to the expiration of the relevant period, the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture, on the basis of study, determine that such river should not be included in the national wild and scenic rivers system and notify the Committees on Interior and Insular Affairs of the United States Congress, in writing, including a copy of the study upon which the determination was made, at least one hundred and eighty days while Congress is in session prior to publishing notice to that effect in the Federal Register: *Provided*, That if any Act designating any river or rivers for potential addition to the national wild and scenic rivers system provides a period for the study or studies which exceeds such three complete fiscal year period the period provided for in such Act shall be substituted for the three complete fiscal year period in the provisions of this clause (i); and

(ii) during such additional period thereafter as, in the case of any river the report for which is submitted to the President and the Congress, is necessary for congressional consideration thereof or, in the case of any river recommended to the Secretary of the Interior for inclusion in the national wild and scenic rivers system under section 1273(a)(ii) of this title, is necessary for the Secretary's consideration thereof, which additional period, however, shall not exceed three years in the first case and one year in the second.

* * * * *

(As amended Pub. L. 93–279, § 1(b)(3), (4), May 10, 1974, 88 Stat. 123; Pub. L. 93–621, § 1(c), Jan. 3, 1975, 88 Stat. 2096.)

AMENDMENTS

1975—Subsec. (b)(i). Pub. L. 93–621 added the proviso that if any Act provides a time period for study in excess of the three fiscal year period, that period shall be substituted for the three complete fiscal year period provision of cl. (i).

1974—Subsec. (b)(i). Pub. L. 93–279, § 1(b)(3), substituted provisions that construction projects may not be licensed or assisted before Oct. 2, 1978, or for a three year period following inclusion of a river in the list of rivers for potential addition to the national wild and scenic river system, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, determined that such river should not be so included and notified the Committees on Interior and Insular Affairs, before publication in the Federal Register, for provisions that such projects may not be licensed or assisted before Oct. 2, 1973, unless, prior to that period, the Secretary of the Interior or the Secretary of Agriculture, as the case may be, concluded that such river should not be so included and published notice to that effect in the Federal Register.

Subsec. (b)(ii). Pub. L. 93–279, § 1(b)(4), substituted "the report for which is submitted to the President and the Congress, is necessary" for "which is recommended to the President and the Congress for inclusion in the national wild and scenic rivers system, is necessary".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1279, 1280 of this title.

§ 1286. Definitions.

As used in this chapter, the term—

* * * * *

(c) "Scenic easement" means the right to control the use of land (including the air space above such land) within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area, but such control shall not affect, without the owner's consent, any regular use exercised prior to the acquisition of the easement. (As amended Pub. L. 93–279, § 1(c), May 10, 1974, 88 Stat. 123.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–279 substituted "within the authorized boundaries of a component of the wild and scenic rivers system, for the purpose of protecting the natural qualities of a designated wild, scenic or recreational river area" for "for the purpose of protecting the scenic view from the river".

§ 1287. Authorization of appropriations.

(a) There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274 (a) of this title):

Clearwater, Middle Fork, Idaho, $2,909,800;
Eleven Point, Missouri, $4,906,500;
Feather Middle Fork, California, $3,935,700;
Rio Grande, New Mexico, $253,000;
Rogue, Oregon, $12,447,200;
St. Croix, Minnesota and Wisconsin, $11,768,550;
Salmon Middle Fork, Idaho, $1,237,100; and
Wolf, Wisconsin, $142,150.

(b) The authority to make the appropriations authorized in this section shall expire on June 30, 1979. (As amended Pub. L. 93–279, § 1(d), May 10, 1974, 88 Stat. 123.)

AMENDMENTS

1974—Pub. L. 93–279 added subsecs. (a) and (b). Former unlettered provisions authorizing appropriation of amounts up to $17,000,000 for the acquisition of lands and interests in land, were stricken.

Chapter 29.—WATER BANK PROGRAM FOR WETLANDS PRESERVATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1501, 1503 of this title.

§ 1308. Advisory Board; appointment; functions; membership; reimbursement for expenses.

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a Board established by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

Chapter 30.—WILD HORSES AND BURROS: PROTECTION, MANAGEMENT, AND CONTROL [NEW]

Sec.
1331. Congressional findings and declaration of policy.
1332. Definitions.
1333. Powers and duties of Secretary.
(a) Jurisdiction; management; ranges; ecological balance objectives; scientific recommendations; forage allocation adjustments.
(b) Humane destruction of certain animals; removal for private maintenance.
(c) Humane destruction: act of mercy; habitat use; overpopulation.
(d) Customary disposal of remains; sales prohibition.
1334. Private maintenance; numerical approximation; strays on private lands: removal; destruction by agents.
1335. Recovery rights.
1336. Cooperative agreements; regulations.
1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitation.
1338. Criminal provisions.
(a) Violations; penalties; trial.
(b) Arrest; appearance for examination or trial; warrants: issuance and execution.
1339. Limitation of authority.
1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies.

§ 1331. Congressional findings and declaration of policy.

Congress finds and declares that wild free-roaming horses and burros are living symbols of the historic and pioneer spirit of the West; that they contribute to the diversity of life forms within the Nation and enrich the lives of the American people; and that these horses and burros are fast disappearing from the American scene. It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harassment, or death; and to accomplish this they are to be considered in the area where presently found, as an integral part of the natural system of the public lands. (Pub. L. 92–195, § 1, Dec. 15, 1971, 85 Stat. 649.)

§ 1332. Definitions.

As used in this chapter—

(a) "Secretary" means the Secretary of the Interior when used in connection with public lands administered by him through the Bureau of Land Management and the Secretary of Agriculture in connection with public lands administered by him through the Forest Service;

(b) "wild free-roaming horses and burros" means all unbranded and unclaimed horses and burros on public lands of the United States;

(c) "range" means the amount of land necessary to sustain an existing herd or herds of wild free-roaming horses and burros, which does not exceed their known territorial limits, and which is devoted principally but not necessarily exclusively to their welfare in keeping with the multiple-use management concept for the public lands;

(d) "herd" means one or more stallions and his mares; and

(e) "public lands" means any lands administered by the Secretary of the Interior through the

Bureau of Land Management or by the Secretary of Agriculture through the Forest Service.
(Pub. L. 92–195, § 2, Dec. 15, 1971, 85 Stat. 649.)

§ 1333. Powers and duties of Secretary.

(a) Jurisdiction; management; ranges; ecological balance objectives; scientific recommendations; forage allocation adjustments.

All wild free-roaming horses and burros are hereby declared to be under the jurisdiction of the Secretary for the purpose of management and protection in accordance with the provisions of this chapter. The Secretary is authorized and directed to protect and manage wild free-roaming horses and burros as components of the public lands, and he may designate and maintain specific ranges on public lands as sanctuaries for their protection and preservation, where the Secretary after consultation with the wildlife agency of the State wherein any such range is proposed and with the Advisory Board established in section 1337 of this title deems such action desirable. The Secretary shall manage wild free-roaming horses and burros in a manner that is designed to achieve and maintain a thriving natural ecological balance on the public lands. He shall consider the recommendations of qualified scientists in the field of biology and ecology, some of whom shall be independent of both Federal and State agencies and may include members of the Advisory Board established in section 1337 of this title. All management activities shall be at the minimal feasible level and shall be carried out in consultation with the wildlife agency of the State wherein such lands are located in order to protect the natural ecological balance of all wildlife species which inhabit such lands, particularly endangered wildlife species. Any adjustments in forage allocations on any such lands shall take into consideration the needs of other wildlife species which inhabit such lands.

(b) Humane destruction of certain animals; removal for private maintenance.

Where an area is found to be overpopulated, the Secretary, after consulting with the Advisory Board, may order old, sick, or lame animals to be destroyed in the most humane manner possible, and he may cause additional excess wild free-roaming horses and burros to be captured and removed for private maintenance under humane conditions and care.

(c) Humane destruction: act of mercy; habitat use; overpopulation.

The Secretary may order wild free-roaming horses or burros to be destroyed in the most humane manner possible when he deems such action to be an act of mercy or when in his judgment such action is necessary to preserve and maintain the habitat in a suitable condition for continued use. No wild free-roaming horse or burro shall be ordered to be destroyed because of over population unless in the judgment of the Secretary such action is the only practical way to remove excess animals from the area.

(d) Customary disposal of remains; sales prohibition.

Nothing in this chapter shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, but in no event shall such remains, or any part thereof, be sold for any consideration, directly or indirectly. (Pub. L. 92–195, § 3, Dec. 15, 1971, 85 Stat. 649.)

§ 1334. Private maintenance; numerical approximation; strays on private lands: removal; destruction by agents.

If wild free-roaming horses or burros stray from public lands onto privately owned land, the owners of such land may inform the nearest Federal marshall or agent of the Secretary, who shall arrange to have the animals removed. In no event shall such wild free-roaming horses and burros be destroyed except by the agents of the Secretary. Nothing in this section shall be construed to prohibit a private landowner from maintaining wild free-roaming horses or burros on his private lands, or lands leased from the Government, if he does so in a manner that protects them from harassment, and if the animals were not willfully removed or enticed from the public lands. Any individuals who maintain such wild free-roaming horses or burros on their private lands or lands leased from the Government shall notify the appropriate agent of the Secretary and supply him with a reasonable approximation of the number of animals so maintained. (Pub. L. 92–195, § 4, Dec. 15, 1971, 85 Stat. 650.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1338 of this title.

§ 1335. Recovery rights.

A person claiming ownership of a horse or burro on the public lands shall be entitled to recover it only if recovery is permissible under the branding and estray laws of the State in which the animal is found. (Pub. L. 92–195, § 5, Dec. 15, 1971, 85 Stat. 650.)

§ 1336. Cooperative agreements; regulations.

The Secretary is authorized to enter into cooperative agreements with other landowners and with the State and local governmental agencies and may issue such regulations as he deems necessary for the furtherance of the purposes of this chapter. (Pub. L. 92–195, § 6, Dec. 15, 1971, 85 Stat. 650.)

§ 1337. Joint advisory board; appointment; membership; functions; qualifications; reimbursement limitation.

The Secretary of the Interior and the Secretary of Agriculture are authorized and directed to appoint a joint advisory board of not more than nine members to advise them on any matter relating to wild free-roaming horses and burros and their management and protection. They shall select as advisers persons who are not employees of the Federal or State Governments and whom they deem to have special knowledge about protection of horses and burros, management of wildlife, animal husbandry, or natural resources management. Members of the board shall not receive reimbursement except for travel and other expenditures necessary in connection with their services. (Pub. L. 92–195, § 7, Dec. 15, 1971, 85 Stat. 650.)

TERMINATION OF ADVISORY BOARDS

Advisory Boards in existence on January 5, 1973, to terminate not later than the expiration of the two-year

period following January 5, 1973, unless, in the case of a Boards establishehd by the President or an officer of the Federal Government, such Board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1333 of this title.

§ 1338. Criminal provisions.

(a) Violations; penalties; trial.

Any person who—

(1) willfully removes or attempts to remove a wild free-roaming horse or burro from the public lands, without authority from the Secretary, or

(2) converts a wild free-roaming horse or burro to private use, without authority from the Secretary, or

(3) maliciously causes the death or harassment of any wild free-roaming horse or burro, or

(4) processes or permits to be processed into commercial products the remains of a wild free-roaming horse or burro, or

(5) sells, directly or indirectly, a wild free-roaming horse or burro maintained on private or leased land pursuant to section 1334 of this title, or the remains thereof, or

(6) willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than $2,000, or imprisonment for not more than one year, or both. Any person so charged with such violation by the Secretary may be tried and sentenced by any United States commissioner or magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions as provided for in section 3401, Title 18.

(b) Arrest; appearance for examination or trial; warrants: issuance and execution.

Any employee designated by the Secretary of the Interior or the Secretary of Agriculture shall have power, without warrant, to arrest any person committing in the presence of such employee a violation of this chapter or any regulation made pursuant thereto, and to take such person immediately for examination or trial before an officer or court of competent jurisdiction, and shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this chapter or regulations made pursuant thereto. Any judge of a court established under the laws of the United States, or any United States magistrate may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. (Pub. L. 92–195, § 8, Dec. 15, 1971, 85 Stat. 650.)

§ 1339. Limitation of authority.

Nothing in this chapter shall be construed to authorize the Secretary to relocate wild free-roaming horses or burros to areas of the public lands where they do not presently exist. (Pub. L. 92–195, § 9, Dec. 15, 1971, 85 Stat. 651.)

§ 1340. Joint report to Congress; consultation and coordination of implementation, enforcement, and departmental activities; studies.

After the expiration of thirty calendar months following December 15, 1971, and every twenty-four calendar months thereafter, the Secretaries of the Interior and Agriculture will submit to Congress a joint report on the administration of this chapter, including a summary of enforcement and/or other actions taken thereunder, costs, and such recommendations for legislative or other actions as he might deem appropriate.

The Secretary of the Interior and the Secretary of Agriculture shall consult with respect to the implementation and enforcement of this chapter and to the maximum feasible extent coordinate the activities of their respective departments and in the implementation and enforcement of this chapter. The Secretaries are authorized and directed to undertake those studies of the habits of wild free-roaming horses and burros that they may deem necessary in order to carry out the provisions of this chapter. (Pub. L. 92–195, § 10, Dec. 15, 1971, 85 Stat. 651.)

Chapter 31.—MARINE MAMMAL PROTECTION [NEW]

Sec.
1361. Congressional findings and declaration of policy.
1362. Definitions.

SUBCHAPTER I.—CONSERVATION AND PROTECTION OF MARINE MAMMALS

1371. Moratorium on taking and importing marine mammals and marine mammal products.
(a) Imposition; exceptions.
(b) Exemptions for Alaskan natives.
(c) Hardship exemption.
1372. Prohibitions.
(a) Taking.
(b) Importation of pregnant or nursing mammals; depleted species or stock; inhumane taking.
(c) Importation of illegally taken mammals.
(d) Nonapplicability of prohibitions.
(e) Retroactive effect.
1373. Regulations on taking of marine mammals.
(a) Necessity and appropriateness.
(b) Factors considered in prescribing regulations.
(c) Allowable restrictions.
(d) Procedure.
(e) Periodic review.
(f) Report to Congress.
1374. Permits.
(a) Issuance.
(b) Requisite provisions.
(c) Importation for display or research.
(d) Application procedures; notice; hearing; review.
(e) Modification, suspension, and revocation.
(f) Possession of permit by issuee or his agent.
(g) Fees.
(h) General permits.
1375. Penalties.
1376. Seizure and forfeiture of cargo; penalties; reward for information leading to conviction.
1377. Enforcement.
(a) Utilization of personnel.
(b) State officers and employees.
(c) Warrants and other process for enforcement.
(d) Execution of process; arrest; search; seizure.
(e) Disposition of seized cargo.
1378. International program.

Sec.
1379. Federal cooperation with States.
(a) State regulation of the taking of marine mammals.
(b) Grants to States.
(c) Delegation of administration and enforcement to States.
1380. Marine mammal research grants.
1381. Commercial fisheries gear development.
(a) Research and development program; report to Congress; authorization of appropriations.
(b) Reduction of level of taking of marine mammals incidental to commercial fishing operations.
(c) Reduction of level of taking of marine mammals in tuna fishery.
(d) Research and observation.
1382. Regulations and administration.
1383. Application to other treaties and conventions.
1384. Authorization of appropriations.

SUBCHAPTER II.—MARINE MAMMAL COMMISSION

1401. Establishment; membership; term; Chairman; compensation; Executive Director.
1402. Duties; reports and recommendations; public information; explanation of non-adoption of recommendations.
1403. Committee of Scientific Advisors on Marine Mammals.
1404. Reports.
1405. Coordination with other Federal agencies.
1406. Administration.
1407. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1543 of this title.

§ 1361. Congressional findings and declaration of policy.

The Congress finds that—

(1) certain species and population stocks of marine mammals are, or may be, in danger of extinction or depletion as a result of man's activities;

(2) such species and population stocks should not be permitted to diminish beyond the point at which they cease to be a significant functioning element in the ecosystem of which they are a part, and, consistent with this major objective, they should not be permitted to diminish below their optimum sustainable population. Further measures should be immediately taken to replenish any species or population stock which has already diminished below that population. In particular, efforts should be made to protect the rookeries, mating grounds, and areas of similar significance for each species of marine mammal from the adverse effect of man's actions;

(3) there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully;

(4) negotiations should be undertaken immediately to encourage the development of international arrangements for research on, and conservation of, all marine mammals;

(5) marine mammals and marine mammal products either—

(A) move in interstate commerce, or

(B) affect the balance of marine ecosystems in a manner which is important to other animals and animal products which move in interstate commerce,

and that the protection and conservation of marine mammals is therefore necessary to insure the continuing availability of those products which move in interstate commerce; and

(6) marine mammals have proven themselves to be resources of great international significance, esthetic and recreational as well as economic, and it is the sense of the Congress that they should be protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the marine ecosystem. Whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population keeping in mind the optimum carrying capacity of the habitat.

(Pub. L. 92–522, § 2, Oct. 21, 1972, 86 Stat. 1027.)

EFFECTIVE DATE

Section 4 of Pub. L. 92–522 provided that: "The provisions of this Act [enacting this chapter] shall take effect upon the expiration of the sixty-day period following the date of its enactment [Oct. 21, 1972]."

SHORT TITLE

Section 1 of Pub. L. 92–522 provided in part that Pub. L. 92–522, which enacted this chapter, may be cited as the "Marine Mammal Protection Act of 1972".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1373, 1379 of this title.

§ 1362. Definitions.

For the purposes of this chapter—

(1) The term "depletion" or "depleted" means any case in which the Secretary, after consultation with the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter II of this chapter, determines that the number of individuals within a species or population stock—

(A) has declined to a significant degree over a period of years;

(B) has otherwise declined and that if such decline continues, or is likely to resume, such species would be subject to the provisions of the Endangered Species Act of 1973; or

(C) is below the optimum carrying capacity for the species or stock within its environment.

(2) The terms "conservation" and "management" means the collection and application of biological information for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at the optimum carrying capacity of their habitat. Such terms include the entire scope of activities that constitute a modern scientific resource program, including, but not limited to, research, census, law enforcement, and habitat acquisition and improvement. Also included within these terms, when and where appropriate, is the periodic or total protection of species or populations as well as regulated taking.

(3) The term "district court of the United States" includes the District Court of Guam, District Court of the Virgin Islands, District Court of Puerto Rico, District Court of the Canal Zone, and,

in the case of American Samoa and the Trust Territory of the Pacific Islands, the District Court of the United States for the District of Hawaii.

(4) The term "humane" in the context of the taking of a marine mammal means that method of taking which involves the least possible degree of pain and suffering practicable to the mammal involved.

(5) The term "marine mammal" means any mammal which (A) is morphologically adapted to the marine environment (including sea otters and members of the orders Sirenia, Pinnipedia and Cetacea), or (B) primarily inhabits the marine environment (such as the polar bear); and, for the purposes of this chapter, includes any part of any such marine mammal, including its raw, dressed, or dyed fur or skin.

(6) The term "marine mammal product" means any item of merchandise which consists, or is composed in whole or in part, of any marine mammal.

(7) The term "moratorium" means a complete cessation of the taking of marine mammals and a complete ban on the importation into the United States of marine mammals and marine mammal products, except as provided in this chapter.

(8) The term "optimum carrying capacity" means the ability of a given habitat to support the optimum sustainable population of a species or population stock in a healthy state without diminishing the ability of the habitat to continue that function.

(9) The term "optimum sustainable population" means, with respect to any population stock, the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the optimum carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element.

(10) The term "person" includes (A) any private person or entity, and (B) any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(11) The term "population stock" or "stock" means a group of marine mammals of the same species or smaller taxa in a common spatial arrangement, that interbreed when mature.

(12) The term "Secretary" means—

(A) the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, as to all responsibility, authority, funding, and duties under this chapter with respect to members of the order Cetacea and members, other than walruses, of the order Pinnipedia, and

(B) the Secretary of the Interior as to all responsibility, authority, funding, and duties under this chapter with respect to all other marine mammals covered by this chapter.

(13) The term "take" means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

(14) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands.

(15) The term "waters under the jurisdiction of the United States" means—

(A) the territorial sea of the United States, and

(B) the fisheries zone established pursuant to the Act of October 14, 1966.

(Pub. L. 92-522, § 3, Oct. 21, 1972, 86 Stat. 1028, amended Pub. L. 93-205, § 13(e)(1), Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

The Endangered Species Act of 1973, referred to in par. (1)(B), is classified to section 1531 et seq. of this title.

The Act of October 14, 1966, referred to in par. (15)(B), is Pub. L. 89-658, which is classified to section 1091 et seq. of this title.

AMENDMENTS

1973—Par. (1)(B). Pub. L. 93-205 substituted "Endangered Species Act of 1973" for "Endangered Species Conservation Act of 1969".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-205 effective Dec. 28, 1973, see section 16 of Pub. L. 93-205, set out as a note under section 1531 of this title.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92-522, set out as a note under section 1361 of this title.

SUBCHAPTER I.—CONSERVATION AND PROTECTION OF MARINE MAMMALS

§ 1371. Moratorium on taking and importing marine mammals and marine mammal products.

(a) Imposition; exceptions.

There shall be a moratorium on the taking and importation of marine mammals and marine mammal products, commencing on the effective date of this Act, during which time no permit may be issued for the taking of any marine mammal and no marine mammal or marine mammal product may be imported into the United States except in the following cases:

(1) Permits may be issued by the Secretary for taking and importation for purposes of scientific research and for public display if—

(A) the taking proposed in the application for any such permit, or

(B) the importation proposed to be made,

is first reviewed by the Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals established under subchapter II of this chapter. The Commission and Committee shall recommend any proposed taking or importation which is consistent with the purposes and policies of section 1361 of this title. The Secretary shall, if he grants approval for importation, issue to the importer concerned a certificate to that effect which shall be in such form as the Secretary of the Treasury prescribes and such importation may be made upon presentation of the certificate to the customs officer concerned.

(2) During the twenty-four calendar months initially following October 21, 1972, the taking of marine mammals incidental to the course of commercial fishing operations shall be permitted, and shall not be subject to the provisions of sections

1373 and 1374 of this title: *Provided,* That such taking conforms to such conditions and regulations as the Secretary is authorized and directed to impose pursuant to section 1381 of this title to insure that those techniques and equipment are used which will produce the least practicable hazard to marine mammals in such commercial fishing operations. Subsequent to such twenty-four months, marine mammals may be taken incidentally in the course of commercial fishing operations and permits may be issued thereof pursuant to section 1374 of this title, subject to regulations prescribed by the Secretary in accordance with section 1373 of this title. In any event it shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate. The Secretary shall request the Committee on Scientific Advisors on Marine Mammals to prepare for public dissemination detailed estimates of the numbers of mammals killed or seriously injured under existing commercial fishing technology and under the technology which shall be required subsequent to such twenty-four-month period. The Secretary of the Treasury shall ban the importation of commercial fish or products from fish which have been caught with commercial fishing technology which results in the incidental kill or incidental serious injury of ocean mammals in excess of United States standards. The Secretary shall insist on reasonable proof from the government of any nation from which fish or fish products will be exported to the United States of the effects on ocean mammals of the commercial fishing technology in use for such fish or fish products exported from such nation to the United States.

(3)(A) The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, is authorized and directed, from time to time, having due regard to the distribution, abundance, breeding habits, and times and lines of migratory movements of such marine mammals, to determine when, to what extent, if at all, and by what means, it is compatible with this chapter to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product, and to adopt suitable regulations, issue permits, and make determinations in accordance with sections 1372, 1373, 1374, and 1381 of this title permitting and governing such taking and importing, in accordance with such determinations: *Provided, however,* That the Secretary, in making such determinations must be assured that the taking of such marine mammal is in accord with sound principles of resource protection and conservation as provided in the purposes and policies of this chapter: *Provided further, however,* That no marine mammal or no marine mammal product may be imported into the United States unless the Secretary certifies that the program for taking marine mammals in the country of origin is consistent with the provisions and policies of this chapter. Products of nations not so certified may not be imported into the United States for any purpose, including processing for exportation.

(B) Except for scientific research purposes as provided for in paragraph (1) of this subsection, during the moratorium no permit may be issued for the taking of any marine mammal which is classified as belonging to an endangered species or threatened species pursuant to the Endangered Species Act of 1973 or has been designated by the Secretary as depleted, and no importation may be made of any such mammal.

(b) Exemptions for Alaskan natives.

The provisions of this chapter shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking—

(1) is for subsistence purposes by Alaskan natives who reside in Alaska, or

(2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing: *Provided,* That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further,* That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing and painting; and

(3) in each case, is not accomplished in a wasteful manner.

Notwithstanding the preceding provisions of this subsection, when, under this chapter, the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts, or Eskimos to be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, Aleut, or Eskimo described in this subsection. Such regulations may be established with reference to species or stocks, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the purposes of this chapter. Such regulations shall be prescribed after notice and hearing required by section 1373 of this title and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared.

(c) Hardship exemption.

In order to minimize undue economic hardship to persons subject to this chapter, other than those engaged in commercial fishing operations referred to in subsection (a)(2) of this section, the Secretary, upon any such person filing an application with him and upon filing such information as the Secretary may require showing, to his satisfaction, such hardship, may exempt such person or class of persons from provisions of this chapter for no more than one

year from October 21, 1972, as he determines to be appropriate. (Pub. L. 92–522, title I, § 101, Oct. 21, 1972, 86 Stat. 1029, amended Pub. L. 93–205, § 13(e)(2), Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (a), means the effective date of Pub. L. 92–522. See effective date note hereunder.

The Endangered Species Act of 1973, referred to in subsec. (a)(3)(B), is classified to section 1531 et seq. of this title.

AMENDMENTS

1973—Subsec. (a)(3)(B). Pub. L. 93–205 substituted "or threatened species pursuant to the Endangered Species Act of 1973" for "pursuant to the Endangered Species Conservation Act of 1969".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1372, 1373, 1374, 1379, 1381 of this title.

§ 1372. Prohibitions.

(a) Taking.

Except as provided in sections 1371, 1373, 1374, 1381, and 1383 of this title, it is unlawful—

(1) for any person subject to the jurisdiction of the United States or any vessel or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas;

(2) except as expressly provided for by an international treaty, convention, or agreement to which the United States is a party and which was entered into before the effective date of this subchapter or by any statute implementing any such treaty, convention, or agreement—

(A) for any person or vessel or other conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States; or

(B) for any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with the taking or importation of marine mammals or marine mammal products; and

(3) for any person, with respect to any marine mammal taken in violation of this subchapter—

(A) to possess any such mammal; or

(B) to transport, sell, or offer for sale any such mammal or any marine mammal product made from any such mammal; and

(4) for any person to use, in a commercial fishery, any means or methods of fishing in contravention of any regulations or limitations, issued by the Secretary for that fishery to achieve the purposes of this chapter.

(b) Importation of pregnant or nursing mammals; depleted species or stock; inhumane taking.

Except pursuant to a permit for scientific research issued under section 1374(c) of this title, it is unlawful to import into the United States any marine mammal if such mammal was—

(1) pregnant at the time of taking;

(2) nursing at the time of taking, or less than eight months old, whichever occurs later;

(3) taken from a species or population stock which the Secretary has, by regulation published in the Federal Register, designated as a depleted species or stock or which has been listed as an endangered species or threatened species pursuant to the Endangered Species Act of 1973; or

(4) taken in a manner deemed inhumane by the Secretary.

(c) Importation of illegally taken mammals.

It is unlawful to import into the United States any of the following:

(1) Any marine mammal which was—

(A) taken in violation of this subchapter; or

(B) taken in another country in violation of the law of that country.

(2) Any marine mammal product if—

(A) the importation into the United States of the marine mammal from which such product is made is unlawful under paragraph (1) of this subsection; or

(B) the sale in commerce of such product in the country of origin of the product is illegal;

(3) Any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner which the Secretary has proscribed for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

(d) Nonapplicability of prohibitions.

Subsections (b) and (c) of this section shall not apply—

(1) in the case of marine mammals or marine mammal products, as the case may be, to which subsection (b)(3) of this section applies, to such items imported into the United States before the date on which the Secretary publishes notice in the Federal Register of his proposed rulemaking with respect to the designation of the species or stock concerned as depleted or endangered; or

(2) in the case of marine mammals or marine mammal products to which subsection (c)(1)(B) or (c)(2)(B) of this section applies, to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

(e) Retroactive effect.

This chapter shall not apply with respect to any marine mammal taken before the effective date of this Act, or to any marine mammal product consisting of, of composed in whole or in part of, any marine mammal taken before such date. (Pub. L. 92–522, title I, § 102, Oct. 21, 1972, 86 Stat. 1032, amended Pub. L. 93–205, § 13(e)(3), Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

The effective date of this subchapter, referred to in subsec. (a)(2), means the effective date of Title I of Pub. L. 92–522. See Effective Date note hereunder.

The Endangered Species Act of 1973, referred to in subsec. (b)(3), is classified to section 1531 et seq. of this title.

The effective date of this Act, referred to in subsec. (e), means the effective date of Pub. L. 92–522. See Effective Date note hereunder.

AMENDMENTS

1973—Subsec. (b)(3). Pub. L. 93–205 substituted "an endangered species or threatened species pursuant to the Endangered Species Act of 1973" for "endangered under the Endangered Species Conservation Act of 1969".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1371 of this title.

§ 1373. Regulations on taking of marine mammals.

(a) Necessity and appropriateness.

The Secretary, on the basis of the best scientific evidence available and in consultation with the Marine Mammal Commission, shall prescribe such regulations with respect to the taking and importing of animals from each species of marine mammal (including regulations on the taking and importing of individuals within population stocks) as he deems necessary and appropriate to insure that such taking will not be to the disadvantage of those species and population stocks and will be consistent with the purposes and policies set forth in section 1361 of this title.

(b) Factors considered in prescribing regulations.

In prescribing such regulations, the Secretary shall give full consideration to all factors which may affect the extent to which such animals may be taken or imported, including but not limited to the effect of such regulations on—

(1) existing and future levels of marine mammal species and population stocks;

(2) existing international treaty and agreement obligations of the United States;

(3) the marine ecosystem and related environmental considerations;

(4) the conservation, development, and utilization of fishery resources; and

(5) the economic and technological feasibility of implementation.

(c) Allowable restrictions.

The regulations prescribed under subsection (a) of this section for any species or population stock of marine mammal may include, but are not limited to, restrictions with respect to—

(1) the number of animals which may be taken or imported in any calendar year pursuant to permits issued under section 1374 of this title;

(2) the age, size, or sex (or any combination of the foregoing) of animals which may be taken or imported, whether or not a quota prescribed under paragraph (1) of this subsection applies with respect to such animals;

(3) the season or other period of time within which animals may be taken or imported;

(4) the manner and locations in which animals may be taken or imported; and

(5) fishing techniques which have been found to cause undue fatalities to any species of marine mammal in a fishery.

(d) Procedure.

Regulations prescribed to carry out this section with respect to any species or stock of marine mammals must be made on the record after opportunity for an agency hearing on both the Secretary's determination to waive the moratorium pursuant to section 1371(a)(3)(A) of this title and on such regulations, except that, in addition to any other requirements imposed by law with respect to agency rulemaking, the Secretary shall publish and make available to the public either before or concurrent with the publication of notice in the Federal Register of his intention to prescribe regulations under this section—

(1) a statement of the estimated existing levels of the species and population stocks of the marine mammal concerned;

(2) a statement of the expected impact of the proposed regulations on the optimum sustainable population of such species or population stock;

(3) a statement describing the evidence before the Secretary upon which he proposes to base such regulations; and

(4) any studies made by or for the Secretary or any recommendations made by or for the Secretary or the Marine Mammal Commission which relate to the establishment of such regulations.

(e) Periodic review.

Any regulation prescribed pursuant to this section shall be periodically reviewed, and may be modified from time to time in such manner as the Secretary deems consistent with and necessary to carry out the purposes of this chapter.

(f) Report to Congress.

Within six months after the effective date of this Act and every twelve months thereafter, the Secretary shall report to the public through publication in the Federal Register and to the Congress on the current status of all marine mammal species and population stocks subject to the provisions of this chapter. His report shall describe those actions taken and those measures believed necessary, including where appropriate, the issuance of permits pursuant to this subchapter to assure the well-being of such marine mammals. (Pub. L. 92–522, title I, § 103, Oct. 21, 1972, 86 Stat. 1033.)

REFERENCES IN TEXT

The effective date of this Act, referred to in subsec. (f), is the effective date of Pub. L. 92–522, See effective date note hereunder.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1372, 1374, 1379, 1539 of this title.

§ 1374. Permits.

(a) Issuance.

The Secretary may issue permits which authorize the taking or importation of any marine mammal.

(b) Requisite provisions.

Any permit issued under this section shall—

(1) be consistent with any applicable regulation established by the Secretary under section 1373 of this title, and

(2) specify—

(A) the number and kind of animals which are authorized to be taken or imported,

(B) the location and manner (which manner must be determined by the Secretary to be humane) in which they may be taken, or from which they may be imported.

(C) the period during which the permit is valid, and

(D) any other terms or conditions which the Secretary deems appropriate.

In any case in which an application for a permit cites as a reason for the proposed taking the overpopulation of a particular species or population stock, the Secretary shall first consider whether or not it would be more desirable to transplant a number of animals (but not to exceed the number requested for taking in the application) of that species or stock to a location not then inhabited by such species or stock but previously inhabited by such species or stock.

(c) Importation for display or research.

Any permit issued by the Secretary which authorizes the taking or importation of a marine mammal for purposes of display or scientific research shall specify, in addition to the conditions required by subsection (b) of this section, the methods of capture, supervision, care, and transportation which must be observed pursuant to and after such taking or importation. Any person authorized to take or import a marine mammal for purposes of display or scientific research shall furnish to the Secretary a report on all activities carried out by him pursuant to that authority.

(d) Application procedures; notice; hearing; review.

(1) The Secretary shall prescribe such procedures as are necessary to carry out this section, including the form and manner in which application for permits may be made.

(2) The Secretary shall publish notice in the Federal Register of each application made for a permit under this section. Such notice shall invite the submission from interested parties, within thirty days after the date of the notice, of written data or views, with respect to the taking or importation proposed in such application.

(3) The applicant for any permit under this section must demonstrate to the Secretary that the taking or importation of any marine mammal under such permit will be consistent with the purposes of this chapter and the applicable regulations established under section 1373 of this title.

(4) If within thirty days after the date of publication of notice pursuant to paragraph (2) of this subsection with respect to any application for a permit any interested party or parties request a hearing in connection therewith, the Secretary may, within sixty days following such date of publication, afford to such party or parties an opportunity for such a hearing.

(5) As soon as practicable (but not later than thirty days) after the close of the hearing or, if no hearing is held, after the last day on which data, or views, may be submitted pursuant to paragraph (2) of this subsection, the Secretary shall (A) issue a permit containing such terms and conditions as he deems appropriate, or (B) shall deny issuance of a permit. Notice of the decision of the Secretary to issue or to deny any permit under this paragraph must be published in the Federal Register within ten days after the date of issuance or denial.

(6) Any applicant for a permit, or any party opposed to such permit, may obtain judicial review of the terms and conditions of any permit issued by the Secretary under this section or of his refusal to issue such a permit. Such review, which shall be pursuant to chapter 7 of Title 5, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within sixty days after the date on which such permit is issued or denied.

(e) Modification, suspension, and revocation.

(1) The Secretary may modify, suspend, or revoke in whole or in part any permit issued by him under this section—

(A) in order to make any such permit consistent with any change made after the date of issuance of such permit with respect to any applicable regulation prescribed under section 1373 of this title, or

(B) in any case in which a violation of the terms and conditions of the permit is found.

(2) Whenever the Secretary shall propose any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Secretary with respect to such proposed modification, suspension, or revocation. Such proposed action by the Secretary shall not take effect until a decision is issued by him after such hearing. Any action taken by the Secretary after such a hearing is subject to judicial review on the same basis as is any action taken by him with respect to a permit application under paragraph (5) of subsection (d) of this section.

(3) Notice of the modification, suspension, or revocation of any permit by the Secretary shall be published in the Federal Register within ten days from the date of the Secretary's decision.

(f) Possession of permit by issuee or his agent.

Any permit issued under this section must be in the possession of the person to whom it is issued (or an agent of such person) during—

(1) the time of the authorized or taking importation;

(2) the period of any transit of such person or agent which is incident to such taking or importation; and

(3) any other time while any marine mammal taken or imported under a such permit is in the possession of such person or agent.

A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine

mammal is placed for purposes of storage, transit, supervision, or care.

(g) Fees.

The Secretary shall establish and charge a reasonable fee for permits issued under this section.

(h) General permits.

Consistent with the regulations prescribed pursuant to section 1373 of this title and to the requirements of section 1371 of this title, the Secretary may issued general permits for the taking of such marine mammals, together with regulations to cover the use of such general permits. (Pub. L. 92–522, title I, § 104, Oct. 21, 1972, 86 Stat. 1034.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522 set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1371, 1372, 1373 of this title.

§ 1375. Penalties.

(a) Any person who violates any provision of this subchapter or of any permit or regulation issued thereunder may be assessed a civil penalty by the Secretary of not more than $10,000 for each such violation. No penalty shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation. Each unlawful taking or importation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary for good cause shown. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action.

(b) Any person who knowingly violates any provision of this subchapter or of any permit or regulation issued thereunder shall, upon conviction, be fined not more than $20,000 for each such violation, or imprisoned for not more than one year, or both. (Pub. L. 92–522, title I, § 105, Oct. 21, 1972, 86 Stat. 1036.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1377, 1383 of this title.

§ 1376. Seizure and forfeiture of cargo; penalties; reward for information leading to conviction.

(a) Any vessel or other conveyance subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall have its entire cargo or the monetary value thereof subject to seizure and forfeiture. All provisions of law relating to the seizure, judicial forfeiture, and condemnation of cargo for violation of the customs laws, the disposition of such cargo, and the proceeds from the sale thereof, and the remission or mitigation of any such forfeiture, shall apply with respect to the cargo of any vessel or other conveyance seized in connection with the unlawful taking of a marine mammal insofar as such provisions of law are applicable and not inconsistent with the provisions of this subchapter.

(b) Any vessel subject to the jurisdiction of the United States that is employed in any manner in the unlawful taking of any marine mammal shall be liable for a civil penalty of not more than $25,000. Such penalty shall be assessed by the district court of the United States having jurisdiction over the vessel. Clearance of a vessel against which a penalty has been assessed, from a port of the United States, may be withheld until such penalty is paid, or until a bond or otherwise satisfactory surety is posted. Such penalty shall constitute a maritime lien on such vessel which may be recovered by action in rem in the district court of the United States having jurisdiction over the vessel.

(c) Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the fine incurred but not to exceed $2,500 to any person who furnishes information which leads to a conviction for a violation of this subchapter. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section. (Pub. L. 92–522, title I, § 106, Oct. 21, 1972, 86 Stat. 1036.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1377. Enforcement.

(a) Utilization of personnel.

Except as otherwise provided in this subchapter, the Secretary shall enforce the provisions of this subchapter. The Secretary may utilize, by agreement, the personnel, services, and facilities of any other Federal agency for purposes of enforcing this subchapter.

(b) State officers and employees.

The Secretary may also designate officers and employees of any State or of any possession of the United States to enforce the provisions of this subchapter. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(c) Warrants and other process for enforcement.

The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process, including warrants or other process issued in admiralty proceedings in United States district courts, as may be required for enforcement of this subchapter and any regulations issued thereunder.

(d) Execution of process; arrest; search; seizure.

Any person authorized by the Secretary to enforce this subchapter may execute any warrant or

process issued by any officer or court of competent jurisdiction for the enforcement of this subchapter. Such person so authorized may, in addition to any other authority conferred by law—

(1) with or without warrant or other process, arrest any person committing in his presence or view a violation of this subchapter or the regulations issued thereunder;

(2) with a warrant or other process, or without a warrant if he has reasonable cause to believe that a vessel or other conveyance subject to the jurisdiction of the United States or any person on board is in violation of any provision of this subchapter or the regulations issued thereunder, search such vessel or conveyance and arrest such person;

(3) seize the cargo of any vessel or other conveyance subject to the jurisdiction of the United States used or employed contrary to the provisions of this subchapter or the regulations issued hereunder or which reasonably appears to have been so used or employed; and

(4) seize, whenever and wherever found, all marine mammals and marine mammal products taken or retained in violation of this subchapter or the regulations issued thereunder and shall dispose of them in accordance with regulations prescribed by the Secretary.

(e) Disposition of seized cargo.

(1) Whenever any cargo or marine mammal or marine mammal product is seized pursuant to this section, the Secretary shall expedite any proceedings commenced under section 1375 (a) or (b) of this title. All marine mammal or marine mammal products or other cargo so seized shall be held by any person authorized by the Secretary pending disposition of such proceedings. The owner or consignee of any such marine mammal or marine mammal product or other cargo so seized shall, as soon as practicable following such seizure, be notified of that fact in accordance with regulations established by the Secretary.

(2) The Secretary may, with respect to any proceeding under section 1375 (a) or (b) of this title, in lieu of holding any marine mammal or marine mammal product or other cargo, permit the person concerned to post bond or other surety satisfactory to the Secretary pending the disposition of such proceeding.

(3)(A) Upon the assessment of a penalty pursuant to section 1375(a) of this title, all marine mammals and marine mammal products or other cargo seized in connection therewith may be proceeded against in any court of competent jurisdiction and forfeited to the Secretary for disposition by him in such manner as he deems appropriate.

(B) Upon conviction for violation of section 1375 (b) of this title, all marine mammals and marine mammal products seized in connection therewith shall be forfeited to the Secretary for disposition by him in such manner as he deems appropriate. Any other property or item so seized may, at the discretion of the court, be forfeited to the United States or otherwise disposed of.

(4) If with respect to any marine mammal or marine mammal product or other cargo so seized—

(A) a civil penalty is assessed under section 1375(a) of this title and no judicial action is commenced to obtain the forfeiture of such mammal or product within thirty days after such assessment, such marine mammal or marine mammal product or other cargo shall be immediately returned to the owner or the consignee; or

(B) no conviction results from an alleged violation of section 1375(b) of this title, such marine mammal or marine mammal product or other cargo shall immediately be returned to the owner or consignee if the Secretary does not, with thirty days after the final disposition of the case involving such alleged violation, commence proceedings for the assessment of a civil penalty under section 1375(a) of this title.

(Pub. L. 92–522, title I, § 107, Oct. 21, 1972, 86 Stat. 1037.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1378. International program.

(a) The Secretary, through the Secretary of State, shall—

(1) initiate negotiations as soon as possible for the development of bilateral or multilateral agreements with other nations for the protection and conservation of all marine mammals covered by this chapter;

(2) initiate negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals. The Secretary of State shall prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums;

(3) encourage such other agreements to promote the purposes of this chapter with other nations for the protection of specific ocean and land regions which are of special significance to the health and stability of marine mammals;

(4) initiate the amendment of any existing international treaty for the protection and conservation of any species of marine mammal to which the United States is a party in order to make such treaty consistent with the purposes and policies of this chapter;

(5) seek the convening of an international ministerial meeting on marine mammals before July 1, 1973, for the purposes of (A) the negotiation of a binding international convention for the protection and conservation of all marine mammals, and (B) the implementation of paragraph (3) of this section; and

(6) provide to the Congress by not later than one year after October 21, 1972, a full report on the results of his efforts under this section.

(b)(1) In addition to the foregoing, the Secretary shall—

(A) in consultation with the Marine Mammal Commission established by section 1401 of this

title, undertake a study of the North Pacific fur seals to determine whether herds of such seals subject to the jurisdiction of the United States are presently at their optimum sustainable population and what population trends are evident; and

(B) in consultation with the Secretary of State, promptly undertake a comprehensive study of the provisions of this chapter, as they relate to North Pacific fur seals, and the provisions of the North Pacific Fur Seal Convention signed on February 9, 1957, as extended (hereafter referred to in this subsection as the "Convention"), to determine what modifications, if any, should be made to the provisions of the Convention, or of this chapter, or both, to make the Convention and this chapter consistent with each other.

The Secretary shall complete the studies required under this paragraph not later than one year after October 21, 1972, and shall immediately provide copies thereof to Congress.

(2) If the Secretary finds—

(A) as a result of the study required under paragraph (1)(A) of this subsection, that the North Pacific fur seal herds are below their optimum sustainable population and are not trending upward toward such level, or have reached their optimum sustainable population but are commencing a downward trend, and believes the herds to be in danger of depletion; or

(B) as a result of the study required under paragraph (1)(B) of this subsection, that modifications of the Convention are desirable to make it and this chapter consistent;

he shall, through the Secretary of State, immediately initiate negotiations to modify the Convention so as to (i) reduce or halt the taking of seals to the extent required to assure that such herds attain and remain at their optimum sustainable population, or (ii) make the Convention and this chapter consistent; or both, as the case may be. If negotiations to so modify the Convention are unsuccessful, the Secretary shall, through the Secretary of State, take such steps as may be necessary to continue the existing Convention beyond its present termination date so as to continue to protect and conserve the North Pacific fur seals and to prevent a return to pelagic sealing. (Pub. L. 92–522, title I, § 108, Oct. 21, 1972, 86 Stat. 1038.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1379. Federal cooperation with States.

(a) State regulation of the taking of marine mammals.

(1) Except as otherwise provided in this section, no State may adopt any law or regulation relating to the taking of marine mammals within its jurisdiction or attempt to enforce any State law or regulation relating to such taking.

(2) Any State may adopt and enforce any laws or regulations relating to the protection and taking, within its jurisdiction, of any species or population stock of marine mammals if the Secretary determines, after review thereof, that such laws and regulations will be consistent with (A) the regulations promulgated under section 1373 of this title with respect to such species or population stock, and (B) such other provisions of this chapter, and any rule or regulation promulgated pursuant to this subchapter, which apply with respect to such species or population stock. If the Secretary determines that any such State laws and regulations are so consistent, the provisions of this chapter, except this section and sections 1371 (except to the extent that the Secretary waives the application of section 1371 to permit such State laws and regulations to take effect) and 1380 of this title, and subchapter II of this chapter, shall not apply with respect to the species or population stock concerned within the jurisdiction of the State.

(3) Notwithstanding the preceding provisions of this subsection and the provisions of subsection (c) of this section, the Secretary shall continuously monitor and review the laws and regulations of any State which has assumed responsibility for marine mammals as provided for in paragraph (2) of this subsection. Whenever the Secretary finds that the laws and regulations of any such State are not in substantial compliance with either paragraph (1) or (2), or both, he shall resume responsibilities under this chapter for the marine mammals concerned within the jurisdiction of that State, superseding such State laws and regulations to the extent which, after notice and opportunity for hearing, he deems necessary.

(4) Nothing in this chapter shall prevent a State or local government official or employee, in the course of his duties as an official or employee, from taking a marine mammal in a humane manner if such taking (A) is for the protection or welfare of such mammal or for the protection of the public health and welfare, and (B) includes steps designed to insure the return of such mammal to its natural habitat.

(b) Grants to States.

The Secretary is authorized to make grants to each State whose laws and regulations relating to protection and management of marine mammals which primarily inhabit waters or lands within the boundaries of that State are found to be consistent with the purposes and policies of this chapter. The purpose of such grants shall be to assist such States in developing and implementing State programs for the protection and management of such marine mammals. Such grants shall not exceed 50 per centum of the costs of a particular program's development and implementation. To be eligible for such grants, State programs shall include planning and such specific activities, including, but not limited, to research, censusing, habitat acquisition and improvement, or law enforcement as the Secretary finds contribute to the purposes and policies of this chapter. The Secretary may also, as a condition of any such grant, provide that State agencies report at regular intervals on the status of species and populations which are the subject of such grants.

(c) Delegation of administration and enforcement to States.

The Secretary is authorized and directed to enter into cooperative arrangements with the appropriate officials of any State for the delegation to such State

of the administration and enforcement of this subchapter: *Provided,* That any such arrangement shall contain such provisions as the Secretary deems appropriate to insure that the purposes and policies of this chapter will be carried out. (Pub. L. 92–522, title I, § 109, Oct. 21, 1972, 86 Stat. 1040.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1380. Marine mammal research grants.

(a) The Secretary is authorized to make grants, or to provide financial assistance in such other form as he deems appropriate, to any Federal or State agency, public or private institution, or other person for the purpose of assisting such agency, institution, or person to undertake research in subjects which are relevant to the protection and conservation of marine mammals.

(b) Any grant or other financial assistance provided by the Secretary pursuant to this section shall be subject to such terms and conditions as the Secretary deems necessary to protect the interests of the United States and shall be made after review by the Marine Mammal Commission.

(c) There are authorized to be appropriated for the fiscal year in which this section takes effect and for the next four fiscal years thereafter such sums as may be necessary to carry out this section, but the sums appropriated for any such year shall not exceed $2,500,000, one-third of such sum to be available to the Secretary of the Interior and two-thirds of such sum to be made available to the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating. (Pub. L. 92–522, title I, § 110, Oct. 21, 1972, 86 Stat. 1041.)

REFERENCES IN TEXT

The fiscal year in which this section takes effect, referred to in subsec. (c), means the fiscal year in which Pub. L. 92–522 takes effect. See effective date note hereunder.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1379 of this title.

§ 1381. Commercial fisheries gear development.

(a) Research and development program; report to Congress; authorization of appropriations.

The Secretary of the department in which the National Oceanic and Atmospheric Administration is operating (hereafter referred to in this section as the "Secretary") is hereby authorized and directed to immediately undertake a program of research and development for the purpose of devising improved fishing methods and gear so as to reduce to the maximum extent practicable the incidental taking of marine mammals in connection with commercial fishing. At the end of the full twenty-four calendar month period following October 21, 1972, the Secretary shall deliver his report in writing to the Congress with respect to the results of such research and development. For the purposes of this section, there is hereby authorized to be appropriated the sum of $1,000,000 for the fiscal year ending June 30, 1973, and the same amount for the next fiscal year. Funds appropriated for this section shall remain available until expended.

(b) Reduction of level of taking of marine mammals incidental to commercial fishing operations.

The Secretary, after consultation with the Marine Mammal Commission, is authorized and directed to issue, as soon as practicable, such regulations, covering the twenty-four-month period referred to in section 1371(a)(2) of this title, as he deems necessary or advisable, to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations. Such regulations shall be adopted pursuant to section 553 of Title 5. In issuing such regulations, the Secretary shall take into account the results of any scientific research under subsection (a) of this section and, in each case, shall provide a reasonable time not exceeding four months for the persons affected to implement such regulations.

(c) Reduction of level of taking of marine mammals in tuna fishery.

Additionally, the Secretary and Secretary of State are directed to commence negotiations within the Inter-American Tropical Tuna Commission in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the maximum extent feasible the incidental taking of marine mammals by vessels involved in the tuna fishery. The Secretary and Secretary of State are further directed to request the Director of Investigations of the Inter-American Tropical Tuna Commission to make recommendations to all member nations of the Commission as soon as is practicable as to the utilization of methods and gear devised under subsection (a) of this section.

(d) Research and observation.

Furthermore, after timely notice and during the period of research provided in this section, duly authorized agents of the Secretary are hereby empowered to board and to accompany any commercial fishing vessel documented under the laws of the United States, there being space available, on a regular fishing trip for the purpose of conducting research or observing operations in regard to the development of improved fishing methods and gear as authorized by this section. Such research and observation shall be carried out in such manner as to minimize interference with fishing operations. The Secretary shall provide for the cost of quartering and maintaining such agents. No master, operator, or owner of such a vessel shall impair or in any way interfere with the research or observation being carried out by agents of the Secretary pursuant to this section. (Pub. L. 92–522, title I, § 111, Oct. 21, 1972, 86 Stat. 1041.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1371, 1372 of this title.

§ 1382. Regulations and administration.

(a) The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subchapter.

(b) Each Federal agency is authorized and directed to cooperate with the Secretary, in such manner as may be mutually agreeable, in carrying out the purposes of this subchapter.

(c) The Secretary may enter into such contracts, leases, cooperative agreements, or other transactions as may be necessary to carry out the purposes of this subchapter and on such terms as he deems appropriate with any Federal or State agency, public or private institution, or other person.

(d) The Secretary shall review annually the operation of each program in which the United States participates involving the taking of marine mammals on lands. If at any time the Secretary finds that any such program cannot be administered on lands owned by the United States or in which the United States has an interest in a manner consistent with the purposes of policies of this chapter, he shall suspend the operation of that program and shall forthwith submit to Congress his reasons for such suspension, together with recommendations for such legislation as he deems necessary and appropriate to resolve the problem. (Pub. L. 92–522, title I, § 112, Oct. 21, 1972, 86 Stat. 1042.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1383. Application to other treaties and conventions.

The provisions of this subchapter shall be deemed to be in addition to and not in contravention of the provisions of any existing international treaty, convention, or agreement, or any statute implementing the same, which may otherwise apply to the taking of marine mammals. Upon a finding by the Secretary that the provisions of any international treaty, convention, or agreement, or any statute implementing the same has been made applicable to persons subject to the provisions of this subchapter in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations, section 1375 of this title may not apply to such persons. (Pub. L. 92–522, title I, § 113(a), Oct. 21, 1972, 86 Stat. 1042.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1372 of this title.

§ 1384. Authorization of appropriations.

(a) There are authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1973, and the four next following fiscal years to enable the department in which the National Oceanic and Atmospheric Administration is operating to carry out such functions and responsibilities as it may have been given under this subchapter.

(b) There are authorized to be appropriated not to exceed $700,000 for the fiscal year ending June 30, 1973, and not to exceed $525,000 for each of the next four fiscal years thereafter to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this subchapter. (Pub. L. 92–522, title I, § 114, Oct. 21, 1972, 86 Stat. 1043.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SUBCHAPTER II.—MARINE MAMMAL COMMISSION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1362, 1371, 1379 of this title.

§ 1401. Establishment; membership; term; Chairman; compensation; Executive Director.

(a) There is hereby established the Marine Mammal Commission (hereafter referred to in this subchapter as the "Commission").

(b)(1) The Commission shall be composed of three members who shall be appointed by the President. The President shall make his selection from a list, submitted to him by the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences, of individuals knowledgeable in the fields of marine ecology and resource management, and who are not in a position to profit from the taking of marine mammals. No member of the Commission may, during his period of service on the Commission, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(2) The term of office for each member shall be three years; except that of the members initially appointed to the Commission, the term of one member shall be for one year, the term of one member shall be for two years, and the term of one member shall be for three years. No member is eligible for reappointment; except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed (A) shall be appointed for the remainder of such term, and (B) is eligible for reappointment for one full term. A member may serve after the expiration of his term until his successor has taken office.

(c) The President shall designate a Chairman of the Commission (hereafter referred to in this subchapter as the "Chairman") from among its members.

(d) Members of the Commission shall each be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of Title 5, for each day such member is engaged in the actual performance of duties vested in the Commission. Each member shall be reimbursed

for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(e) The Commission shall have an Executive Director, who shall be appointed (without regard to the provisions of Title 5 governing appointments in the competitive service) by the Chairman with the approval of the Commission and shall be paid at a rate not in excess of the rate for GS–18 of the General Schedule under section 5332 of Title 5. The Executive Director shall have such duties as the Chairman may assign. (Pub. L. 92–522, title II, § 201, Oct. 21, 1972, 86 Stat. 1043.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1378 of this title.

§ 1402. Duties; reports and recommendations; public information; explanation of non-adoption of recommendations.

(a) The Commission shall—

(1) undertake a review and study of the activities of the United States pursuant to existing laws and international conventions relating to marine mammals, including, but not limited to, the International Convention for the Regulation of Whaling, the Whaling Convention Act of 1949, the Interim Convention on the Conservation of North Pacific Fur Seals, and the Fur Seal Act of 1966;

(2) conduct a continuing review of the condition of the stocks of marine mammals, of methods for their protection and conservation, of humane means of taking marine mammals, of research programs conducted or proposed to be conducted under the authority of this chapter, and of all applications for permits for scientific research;

(3) undertake or cause to be undertaken such other studies as it deems necessary or desirable in connection with its assigned duties as to the protection and conservation of marine mammals;

(4) recommend to the Secretary and to other Federal officials such steps as it deems necessary or desirable for the protection and conservation of marine mammals;

(5) recommend to the Secretary of State appropriate policies regarding existing international arrangements for the protection and conservation of marine mammals, and suggest appropriate international arrangements for the protection and conservation of marine mammals;

(6) recommend to the Secretary such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title, as may be appropriate with regard to marine mammals; and

(7) recommend to the Secretary, other appropriate Federal officials, and Congress such additional measures as it deems necessary or desirable to further the policies of this chapter, including provisions for the protection of the Indians, Eskimos, and Aleuts whose livelihood may be adversely affected by actions taken pursuant to this chapter.

(b) The Commission shall consult with the Secretary at such intervals as it or he may deem desirable, and shall furnish its reports and recommendations to him, before publication, for his comment.

(c) The reports and recommendations which the Commission makes shall be matters of public record and shall be available to the public at all reasonable times. All other activities of the Commission shall be matters of public record and available to the public in accordance with the provisions of section 552 of Title 5.

(d) Any recommendations made by the Commission to the Secretary and other Federal officials shall be responded to by those individuals within one hundred and twenty days after receipt thereof. Any recommendations which are not followed or adopted shall be referred to the Commission together with a detailed explanation of the reasons why those recommendations were not followed or adopted. (Pub. L. 92–522, title II, § 202, Oct. 21, 1972, 86 Stat. 1044, amended Pub. L. 93–205, § 13(e)(4), Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

The Whaling Convention Act of 1949, referred to in subsec. (a), is classified to section 916 et seq. of this title.

The Fur Seal Act of 1966, referred to in subsec. (a), is classified to section 1151 et seq. of this title.

AMENDMENTS

1973—Subsec. (a)(6). Pub. L. 93–205 substituted "such revisions of the endangered species list and threatened species list published pursuant to section 1533(c)(1) of this title" for "of the Interior such revisions of the Endangered Species List, authorized by the Endangered Species Conservation Act of 1969,".

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–205 effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1404, 1407 of this title.

§ 1403. Committee of Scientific Advisors on Marine Mammals.

(a) The Commission shall establish, within ninety days after its establishment, a Committee of Scientific Advisors on Marine Mammals (hereafter referred to in this subchapter as the "Committee"). Such Committee shall consist of nine scientists knowledgeable in marine ecology and marine mammal affairs appointed by the Chairman after consultation with the Chairman of the Council on Environmental Quality, the Secretary of the Smithsonian Institution, the Director of the National Science Foundation, and the Chairman of the National Academy of Sciences.

(b) Except for United States Government employees, members of the Committee shall each be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of Title 5, for each day such member is engaged in the actual performance of duties vested in the Committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of

subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently.

(c) The Commission shall consult with the Committee on all studies and recommendations which it may propose to make or has made, on research programs conducted or proposed to be conducted under the authority of this chapter, and on all applications for permits for scientific research. Any recommendations made by the Committee or any of its members which are not adopted by the Commission shall be transmitted by the Commission to the appropriate Federal agency and to the appropriate committees of Congress with a detailed explanation of the Commission's reasons for not accepting such recommendations. (Pub. L. 92–522, title II, § 203, Oct. 21, 1972, 86 Stat. 1044.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1404. Reports.

The Commission shall transmit to Congress, by January 31 of each year, a report which shall include—

(1) a description of the activities and accomplishments of the Commission during the immediately preceding year; and

(2) all the findings and recommendations made by and to the Commission pursuant to section 1402 of this title together with the responses made to these recommendations.

(Pub. L. 92–522, title II, § 204, Oct. 21, 1972, 86 Stat. 1045.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1405. Coordination with other Federal agencies.

The Commission shall have access to all studies and data compiled by Federal agencies regarding marine mammals. With the consent of the appropriate Secretary or Agency head, the Commission may also utilize the facilities or services of any Federal agency and shall take every feasible step to avoid duplication of research and to carry out the purposes of this chapter. (Pub. L. 92–522, title II, § 205, Oct. 21, 1972, 86 Stat. 1045.)

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1406. Administration.

The Commission, in carrying out its responsibilities under this subchapter, may—

(1) employ and fix the compensation of such personnel;

(2) acquire, furnish, and equip such office space;

(3) enter into such contracts or agreements with other organizations, both public and private;

(4) procure the services of such experts or consultants or an organization thereof as is authorized under section 3109 of Title 5 (but at rates for individuals not to exceed $100 per diem); and

(5) incur such necessary expenses and exercise such other powers, as are consistent with and reasonably required to perform its functions under this subchapter. Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the General Services Administration, for which payment shall be made in advance, or by reimbursement from funds of the Commission in such amounts as may be agreed upon by the Chairman and the Administrator of General Services.

EFFECTIVE DATE

(Pub. L. 92–522, title II, § 206, Oct. 21, 1972, 86 Stat. 1045.)

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

§ 1407. Authorization of appropriations.

There are authorized to be appropriated for the fiscal year in which this subchapter is enacted and for the next four fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any such year shall not exceed $1,000,000. Not less than two-thirds of the total amount of the sums appropriated pursuant to this section for any such year shall be expended on research and studies conducted under the authority of section 1402(a)(2) and (3) of this title. (Pub. L. 92–522, title II, § 207, Oct. 21, 1972, 86 Stat. 1046.)

REFERENCES IN TEXT

The fiscal year in which this subchapter is enacted, referred to in text, means the fiscal year in which Pub. L. 92–522 was enacted. See Effective Date note hereunder.

EFFECTIVE DATE

Section effective upon the expiration of the sixty-day period following Oct. 21, 1972, see section 4 of Pub. L. 92–522, set out as a note under section 1361 of this title.

Chapter 32.—MARINE SANCTUARIES [NEW]

Sec.
1431. Definition.
1432. Designation of sanctuaries.
(a) Secretary of Commerce; consultation; proposed designations.
(b) Waters lying within the territorial limits of State or superjacent to subsoil and seabed within seaward boundary of coastal State.
(c) Sanctuaries which include areas of ocean waters outside territorial waters of United States.
(d) Annual report to Congress.
(e) Hearings in coastal areas most directly affected.
(f) Regulations controlling activities permitted within sanctuaries.
(g) Accordance of regulations with treaties, conventions, and other agreements.
1433. Penalties.
1434. Authorization of appropriations.

§ 1431. Definition.

The term "Secretary", when used in this chapter, means Secretary of Commerce. (Pub. L. 92–532, title III, § 301, Oct. 23, 1972, 86 Stat. 1061.)

CODIFICATION

Section 301 of Pub. L. 92–532 contained in the original the introductory phrase: "Notwithstanding the provisions of subsection (h) of section 3 of this Act" which has been omitted from the text of this section. Such section 3 of Pub. L. 92–532 is classified to section 1402 of Title 33, Navigation and Navigable Waters. See Additional Definitions note below.

ADDITIONAL DEFINITIONS

Section 3 of Pub. L. 92–532, which is classified to section 1402 of Title 33, Navigation and Navigable Waters, defines for purposes of this chapter the terms "Administrator", "Ocean waters", "Material", "United States", "Person", "Dumping", "District Court of the United States", "Dredged material", "High-level radioactive waste", and "Transport" or "Transportation". The definition of the term "Secretary" in subsec. (h) thereof as meaning the Secretary of the Army is superseded for purposes of this chapter by this section defining the term "Secretary" as meaning the Secretary of Commerce. See Codification note above.

CONGRESSIONAL FINDINGS, POLICY, AND DECLARATION OF PURPOSE

For statement of Congressional findings, policy, and declaration of purpose governing this chapter as well as chapter 27 of Title 33, Navigation and Navigable Waters, see section 1401 of Title 33.

INTERNATIONAL COOPERATION

For direction that the Secretary of State seek effective international action and cooperation through the development of appropriate international rules and regulations in support of the policy of this chapter as well as that of chapter 27 of Title 33, Navigation and Navigable Waters, see section 1419 of Title 33.

PREVENTION, CONTROL AND ABATEMENT OF ENVIRONMENTAL POLLUTION AT FEDERAL FACILITIES

Ex. Ord. No. 11752, Dec. 17, 1973, 38 F.R. 34793, set out as a note under section 4331 of Title 42, The Public Health and Welfare, provides for the prevention, control, and abatement of environmental pollution at federal facilities.

§ 1432. Designation of sanctuaries.

(a) Secretary of Commerce; consultation; proposed designations.

The Secretary, after consultation with the Secretaries of State, Defense, the Interior, and Transportation, the Administrator, and the heads of other interested Federal agencies, and with the approval of the President, may designate as marine sanctuaries those areas of the ocean waters, as far seaward as the outer edge of the Continental Shelf, as defined in the Convention of the Continental Shelf (15 U.S.T. 74; TIAS 5578), of other coastal waters where the tide ebbs and flows, or of the Great Lakes and their connecting waters, which he determines necessary for the purpose of preserving or restoring such areas for their conservation, recreational, ecological, or esthetic values. The consultation shall include an opportunity to review and comment on a specific proposed designation.

(b) Waters lying within the territorial limits of State or superjacent to subsoil and seabed within seaward boundary of coastal State.

Prior to designating a marine sanctuary which includes waters lying within the territorial limits of any State or superjacent to the subsoil and seabed within the seaward boundary of a coastal State, as that boundary is defined in section 1301 of Title 43, the Secretary shall consult with, and give due consideration to the views of, the responsible officials of the State involved. As to such waters, a designation under this section shall become effective sixty days after it is published, unless the Governor of any State involved shall, before the expiration of the sixty-day period, certify to the Secretary that the designation, or a specified portion thereof, is unacceptable to his State, in which case the designated sanctuary shall not include the area certified as unacceptable until such time as the Governor withdraws his certification of unacceptability.

(c) Sanctuaries which include areas of ocean waters outside territorial waters of United States.

When a marine sanctuary is designated, pursuant to this section, which includes an area of ocean waters outside the territorial jurisdiction of the United States, the Secretary of State shall take such actions as may be appropriate to enter into negotiations with other Governments for the purpose of arriving at necessary agreements with those Governments, in order to protect such sanctuary and to promote the purposes for which it was established.

(d) Annual report to Congress.

The Secretary shall submit an annual report to the Congress, on or before November 1 of each year, setting forth a comprehensive review of his actions during the previous fiscal year undertaken pursuant to the authority of this section, together with appropriate recommendation for legislation considered necessary for the designation and protection of marine sanctuaries.

(e) Hearings in coastal areas most directly affected.

Before a marine sanctuary is designated under this section, the Secretary shall hold public hearings in the coastal areas which would be most directly affected by such designation, for the purpose of receiving and giving proper consideration to the views of any interested party. Such hearings shall be held no earlier than thirty days after the publication of a public notice thereof.

(f) Regulations controlling activities permitted within sanctuaries.

After a marine sanctuary has been designated under this section, the Secretary, after consultation with other interested Federal agencies, shall issue necessary and reasonable regulations to control any activities permitted within the designated marine sanctuary, and no permit, license, or other authorization issued pursuant to any other authority shall be valid unless the Secretary shall certify that the permitted activity is consistent with the purposes of this chapter and can be carried out within the regulations promulgated under this section.

(g) Accordance of regulations with treaties, conventions, and other agreements.

The regulations issued pursuant to subsection (f) of this section shall be applied in accordance with recognized principles of international law, including treaties, conventions, and other agreements to which

the United States is signatory. Unless the application of the regulations is in accordance with such principles or is otherwise authorized by an agreement between the United States and the foreign State of which the affected person is a citizen or, in the case of the crew of a foreign vessel, between the United States and flag State of the vessel, no regulation applicable to ocean waters outside the territorial jurisdiction of the United States shall be applied to a person not a citizen of the United States. (Pub. L. 92–532, title III, § 302, Oct. 23, 1972, 86 Stat. 1061.)

§ 1433. Penalties.

(a) Any person subject to the jurisdiction of the United States who violates any regulation issued pursuant to this chapter shall be liable to a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

(b) No penalty shall be assessed under this section until the person charged has been given notice and an opportunity to be heard. Upon failure of the offending party to pay an assessed penalty, the Attorney General, at the request of the Secretary, shall commence action in the appropriate district court of the United States to collect the penalty and to seek such other relief as may be appropriate.

(c) A vessel used in the violation of a regulation issued pursuant to this chapter shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction thereof.

(d) The district courts of the United States shall have jurisdiction to restrain a violation of the regulations issued pursuant to this chapter, and to grant such other relief as may be appropriate. Actions shall be brought by the Attorney General in the name of the United States, either on his own initiative or at the request of the Secretary. (Pub. L. 92–532, title III, § 303, Oct. 23, 1972, 86 Stat. 1062.)

§ 1434. Authorization of appropriations.

There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $6,200,000 for fiscal year 1976, and not to exceed $1,550,000 for the transition period (July 1 through September 30, 1976) to carry out the provisions of this chapter, including the acquisition, development, and operation of marine sanctuaries designated under this chapter. (Pub. L. 92–532, title III, § 304, Oct. 23, 1972, 86 Stat. 1063, amended Pub. L. 94–62, § 4, July 25, 1975, 89 Stat. 303.)

AMENDMENTS

1975—Pub. L. 94–62 substituted provisions authorizing to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, for provisions authorizing to be appropriated for the fiscal year in which this Act was enacted and for the next two fiscal years thereafter not to exceed $10,000,000 for each such fiscal year, and added provisions authorizing to be appropriated not to exceed $6,200,000 for fiscal year 1976, and not to exceed $1,550,000 for the transition period (July 1 through Sept. 30, 1976).

Chapter 33.—COASTAL ZONE MANAGEMENT [NEW]

Sec.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 sections 1503, 1508.

§ 1451. Congressional findings.

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

(h) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance. (Pub. L. 89–454, title III, § 302, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1280.)

SHORT TITLE

Section 301 of Pub. L. 89–454, as added by Pub. L. 92–583, provided that: "This title [enacting this chapter] may be cited as the 'Coastal Zone Management Act of 1972'."

§ 1452. Congressional declaration of policy.

The Congress finds and declares that it is the national policy (a) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations, (b) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development, (c) for all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with state and local governments and regional agencies in effectuating the purposes of this chapter, and (d) to encourage the participation of the public, of Federal, state, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various state and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action particularly regarding environmental problems. (Pub. L. 89–454, title III, § 303, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1281.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1455 of this title.

§ 1453. Definitions.

For purposes of this chapter—

(a) "Coastal zone" means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(b) "Coastal waters" means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable quantity or percentage of sea water, including, but not limited to, sounds, bays, lagoons, bayous, ponds, and estuaries.

(c) "Coastal state" means a state of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this chapter, the term also includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(d) "Estuary" means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

(e) "Estuarine sanctuary" means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

(f) "Secretary" means the Secretary of Commerce.

(g) "Management program" includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the state in accordance with the provisions of this chapter, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone.

(h) "Water use" means activities which are conducted in or on the water; but does not mean or include the establishment of any water quality standard or criteria or the regulation of the discharge or runoff of water pollutants except the standards, criteria, or regulations which are incorporated in any program as required by the provisions of section 1456(f) of this title.

(i) "Land use" means activities which are conducted in or on the shorelands within the coastal zone, subject to the requirements outlined in section 1456(g) of this title.

(Pub. L. 89–454, title III, § 304, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1281.)

§ 1454. Management development program grants.

(a) Authorization.

The Secretary is authorized to make annual grants to any coastal state for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

(b) Program requirements.

Such management program shall include:

(1) an identification of the boundaries of the coastal zone subject to the management program;

(2) a definition of what shall constitute permissible land and water uses within the coastal zone which have a direct and significant impact on the coastal waters;

(3) an inventory and designation of areas of particular concern within the coastal zone;

(4) an identification of the means by which the state proposes to exert control over the land and water uses referred to in paragraph (2) of this subsection, including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decision;

(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of local, areawide, state, regional, and interstate agencies in the management process.

(c) Limits on grants.

The grants shall not exceed 66⅔ per centum of the costs of the program in any one year and no state shall be eligible to receive more than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the state must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 1455 of this title. After making the initial grant to a coastal state, no subsequent grant shall be made under this section unless the Secretary finds that the state is satisfactorily developing such management program.

(d) Submission of program for review and approval.

Upon completion of the development of the state's management program, the state shall submit such program to the Secretary for review and approval, pursuant to the provisions of section 1455 of this title, or such other action as he deems necessary. On final approval of such program by the Secretary, the state's eligibility for further grants under this section shall terminate, and the state shall be eligible for grants under section 1455 of this title.

(e) Allocation of grants.

Grants under this section shall be allocated to the states based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further,* That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

(f) Reversion of unobligated grants.

Grants or portions thereof not obligated by a state during the fiscal year for which they were first authorized to be obligated by the state, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

(g) Grants to other political subdivisions.

With the approval of the Secretary, the state may allocate to a local government, to an areawide agency designated under section 3334 of Title 42, to a regional agency, or to an interstate agency, a portion of the grant under this section, for the purpose of carrying out the provisions of this section.

(h) Expiration date of grant authority.

The authority to make grants under this section shall expire on June 30, 1977. (Pub. L. 89–454, title III, § 305, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1282, and amended Pub. L. 93–612, § 1(1), Jan. 2, 1975, 88 Stat. 1974.)

AMENDMENTS

1975—Subsec. (e). Pub. L. 93–612 added the proviso relating to the waiver by the Secretary of the 1 per centum minimum requirement upon request by the coastal State.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1461, 1464 of this title; title 33 section 1508.

§ 1455. Administrative grants.

(a) Authorization.

The Secretary is authorized to make annual grants to any coastal state for not more than 66⅔ per centum of the costs of administering the state's management program, if he approves such program in accordance with subsection (c) of this section. Federal funds received from other sources shall not be used to pay the state's share of costs.

(b) Allocation of grants.

Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided,* That no annual grant made under this section shall be in excess of $2,000,000 for fiscal year 1975, in excess of $2,500,000 for fiscal year 1976, nor in excess of

$3,000,000 for fiscal year 1977: *Provided further,* That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further,* That the Secretary shall waive the application of the 1 per centum minimum requirement as to any grant under this section, when the coastal State involved requests such a waiver.

(c) Program requirements.

Prior to granting approval of a management program submitted by a coastal state, the Secretary shall find that:

(1) The state has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this chapter and is consistent with the policy declared in section 1452 of this title.

(2) The state has:

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the state's management program is submitted to the Secretary, which plans have been developed by a local government, an areawide agency designated pursuant to regulations established under section 3334 of Title 42, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this chapter.

(3) The state has held public hearings in the development of the management program.

(4) The management program and any changes thereto have been reviewed and approved by the Governor.

(5) The Governor of the state has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

(6) The state is organized to implement the management program required under paragraph (1) of this subsection.

(7) The state has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

(8) The management program provides for adequate consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature.

(9) The management program makes provisions for procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, or esthetic values.

(d) Required authority for management of coastal zone.

Prior to granting approval of the management program, the Secretary shall find that the state, acting through its chosen agency or agencies, including local governments, areawide agencies designated under section 3334 of Title 42, regional agencies, or interstate agencies, has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(e) Required findings.

Prior to granting approval, the Secretary shall also find that the program provides:

(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

(B) Direct state land and water use planning and regulation; or

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any state or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

(f) Allocation to other political subdivisions.

With the approval of the Secretary, a state may allocate to a local government, an areawide agency designated under section 3334 of Title 42, a regional agency, or an interstate agency, a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided,* That such allocation shall not relieve the state of the responsibility for ensuring that any funds so allocated are applied in furtherance of such state's approved management program.

(g) Program modification.

The state shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the

Secretary before additional administrative grants are made to the state under the program as amended.

(h) Segmental development.

At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided,* That the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable. (Pub. L. 89–454, title III, § 306, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1283, and amended Pub. L. 93–612, § 1(2), Jan. 2, 1975, 88 Stat. 1974.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93–612 substituted provisos establishing maximum amount of annual grant for fiscal years 1975, 1976, and 1977, establishing a minimum of 1 per centum of the total appropriated amount, and providing for waiver of the 1 per centum minimum upon request of the coastal State, for proviso limiting an annual administrative grant to a maximum of 10 per centum and a minimum of 1 per centum of the total appropriated amount.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1454, 1456, 1458, 1461, 1464 of this title.

§ 1456. Interagency coordination and cooperation.

(a) Federal agencies.

In carrying out his functions and responsibilities under this chapter, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) Adequate consideration of views of Federal agencies; mediation of disagreements.

The Secretary shall not approve the management program submitted by a state pursuant to section 1455 of this title unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and the state in the development of the program the Secretary, in cooperation with the Executive Office of the President, shall seek to mediate the differences.

(c) Consistency of Federal activities with state management programs; certification.

(1) Each Federal agency conducting or supporting activities directly affecting the coastal zone shall conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state management programs.

(2) Any Federal agency which shall undertake any development project in the coastal zone of a state shall insure that the project is, to the maximum extent practicable, consistent with approved state management programs.

(3) After final approval by the Secretary of a state's management program, any applicant for a required Federal license or permit to conduct an activity affecting land or water uses in the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this chapter or is otherwise necessary in the interest of national security.

(d) Application of local governments for Federal assistance; relationship of activities with approved management programs.

State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968. Federal agencies shall not approve proposed projects that are inconsistent with a coastal state's management program, except upon a finding by the Secretary that such project is consistent with the purposes of this chapter or necessary in the interest of national security.

(e) Construction with other laws.

Nothing in this chapter shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(f) Construction with existing requirements of water and air pollution programs.

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended, or the Clean Air Act, as amended, or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

(g) Concurrence with programs which affect inland areas.

When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 1455 of this title, includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas. (Pub. L. 89–454, title III, § 307, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1285.)

REFERENCES IN TEXT

The Intergovernmental Coordination Act of 1968, referred to in text, presumably refers to the Intergovernmental Cooperation Act of 1968. Title IV thereof is classified to section 4231 et seq. of Title 42, The Public Health and Welfare.

The Federal Water Pollution Control Act and the Clean Air Act, referred to in text, are classified, respectively, to section 1251 et seq. of Title 33, Navigation and Navigable Waters, and section 1857 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1462 of this title.

§ 1457. Public hearings.

All public hearings required under this chapter must be announced at least thirty days prior to the hearing date. At the time of the announcement, all agency materials pertinent to the hearings, including documents, studies, and other data, must be made available to the public for review and study. As similar materials are subsequently developed, they shall be made available to the public as they become available to the agency. (Pub. L. 89–454, title III, § 308, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1458. Review of performance; termination of financial assistance.

(a) The Secretary shall conduct a continuing review of the management programs of the coastal states and of the performance of each state.

(b) The Secretary shall have the authority to terminate any financial assistance extended under section 1455 of this title and to withdraw any unexpended portion of such assistance if (1) he determines that the state is failing to adhere to and is not justified in deviating from the program approved by the Secretary; and (2) the state has been given notice of the proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program. (Pub. L. 89–454, title III, § 309, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1459. Records and audit.

(a) Each recipient of a grant under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this chapter. (Pub. L. 89–454, title III, § 310, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287.)

§ 1460. Coastal Zone Management Advisory Committee.

(a) The Secretary is authorized and directed to establish a Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct. The Secretary shall insure that the committee membership as a group possesses a broad range of experience and knowledge relating to problems involving management, use, conservation, protection, and development of coastal zone resources.

(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding $100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently. (Pub. L. 89–454, title III, § 311, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1287.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on January 5, 1973, to terminate not later than the expiration of the two-year period following January 5, 1973, unless, in the case of a

committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1461. Estuarine sanctuaries.

The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal state grants of up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed $2,000,000. No Federal funds received pursuant to section 1454 or 1455 of this title shall be used for the purpose of this section. (Pub. L. 89–454, title III, § 312, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 1462. Annual report.

(a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this chapter for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the state programs approved pursuant to this chapter during the preceding Federal fiscal year and a description of those programs; (2) a listing of the states participating in the provisions of this chapter and a description of the status of each state's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allocation of funds to the various coastal states and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any state programs which have been reviewed and disapproved or with respect to which grants have been terminated under this chapter, and a statement of the reasons for such action; (5) a listing of all activities and projects which, pursuant to the provisions of subsection (c) or subsection (d) of section 1456 of this title, are not consistent with an applicable approved state management program; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of a coordinated national strategy and program for the Nation's coastal zone including identification and discussion of Federal, regional, state, and local responsibilities and functions therein; (8) a summary of outstanding problems arising in the administration of this chapter in order of priority; and (9) such other information as may be appropriate.

(b) The report required by subsection (a) of this section shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this chapter and enhance its effective operation. (Pub. L. 89–454, title III, § 313, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288.)

§ 1463. Rules and regulations.

The Secretary shall develop and promulgate, pursuant to section 553 of Title 5, after notice and opportunity for full participation by relevant Federal agencies, state agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this chapter. (Pub. L. 89–454, title III, § 314, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1288.)

§ 1464. Authorization of appropriations.

(a) There are authorized to be appropriated—

(1) the sum of $9,000,000 for each of the fiscal years ending June 30, 1973, and June 30, 1974, and the sum of $12,000,000 for each of the three succeeding fiscal years, for grants under section 1454 of this title, to remain available until expended;

(2) such sums, not to exceed $30,000,000, for the fiscal year ending June 30, 1974, and for each of the fiscal years 1975 through 1977, as may be necessary, for grants under section 1455 of this title to remain available until expended; and

(3) such sums, not to exceed $6,000,000 for the fiscal year ending June 30, 1974, and for each of the three succeeding fiscal years, as may be necessary, for grants under section 1461 of this title, to remain available until expended.

(b) There are also authorized to be appropriated such sums, not to exceed $3,000,000, for fiscal year 1973 and for each of the four succeeding fiscal years, as may be necessary for administrative expenses incident to the administration of this chapter. (Pub. L. 89–454, title III, § 315, as added Pub. L. 92–583, Oct. 27, 1972, 86 Stat. 1289, and amended Pub. L. 93–612, § 1(3), Jan. 2, 1975, 88 Stat. 1974.)

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93–612, § 1(3)(A), increased from $9,000,000 to $12,000,000 the sums authorized to be appropriated for the 3 fiscal years following the fiscal year 1974.

Subsec. (a)(3). Pub. L. 93–612, § 1(3)(B), added "and for each of the three succeeding fiscal years," following "fiscal year ending June 30, 1974,".

Chapter 34.—RURAL ENVIRONMENTAL CONSERVATION PROGRAM [NEW]

Sec.

1501. Establishment and purpose of programs; contracting and purchasing authority of Secretary; maintenance of continuing and stable supply of agricultural commodities and forest products.
1502. Plan of farming operations or land use; necessity for contract applicants to furnish Secretary; contents of plan.
1503. Contracts.
(a) Approved conservation plans as basis; duties of landowner or operator under contracts.
(b) Duties of Secretary under contracts; shared costs.
(c) Termination and modification of contracts.
1504. Authority of Secretary to furnish eligible owners and operators conservation materials, etc.
1505. Multiyear set-aside contracts; contracting authority of Secretary; duration of contracts; eligibility of producers; duties of producers under contracts; cost-sharing incentives for farm operators.
1506. Rules and regulations; limitations on total acreage retired from production pursuant to contracts.

Sec.
1507. Advisory boards.
(a) State boards; functions; membership; appointment and qualifications of members; meetings.
(b) National board; establishment in consultation with Secretary of Interior; functions and duties.
1508. Coordination with and utilization by Secretary of Federal, State, and local services and facilities to carry out programs and plans.
1509. Forestry incentives program.
(a) Establishment and purposes of program.
(b) Definition.
(c) Consultations by Secretary; criteria for distribution of funds by Secretary for cost-sharing; approval of contracts for tracts greater than 500 acres.
(d) Advertising and bid procedure for contracts.
(e) Implementation of program; periodic reports to appropriate Congressional committees.
1510. Authorization of appropriations; construction and continuation of programs, contracts, and authorities; limitation on authorization of appropriation for forestry incentives program.

§ 1501. Establishment and purpose of programs; contracting and purchasing authority of Secretary; maintenance of continuing and stable supply of agricultural commodities and forest products.

Notwithstanding any other provision of law the Secretary shall carry out the purposes specified in clauses (1), (2), (3), (4), and (6) of section 590g(a) of this title, section 590p(b) of this title, and in the Water Bank Act by entering into contracts of three, five, ten, or twenty-five years with, and at the option of, eligible owners and operators of land as determined by the Secretary and having such control as the Secretary determines to be needed on the farms, ranches, wetlands, forests, or other lands covered thereby. In addition, the Secretary is hereby authorized to purchase perpetual easements to promote said purpose of this chapter, including the sound use and management of flood plains, shore lands, and aquatic areas of the Nation. Such contracts shall be designed to assist farm, ranch, wetland, and nonindustrial private forest owners and operators, or other owners or operators, to make, in orderly progression over a period of years, such changes, if any, as are needed to effectuate any of the purposes specified in clauses (1), (2), (3), (4), and (6) of section 590g(a) of this title; section 590p(b) of this title; the Water Bank Act; in enlarging fish and wildlife and recreation sources; in improving the level of management of nonindustrial private forest lands; and in providing long-term wildlife and upland game cover. In carrying out the provisions of this chapter, due regard shall be given to the maintenance of a continuing and stable supply of agricultural commodities and forest products adequate to meet consumer demand at prices fair to both producers and consumers. (Pub. L. 91–524, title X, § 1001, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 241, and amended Pub. L. 93–125, § 1(g)(1), Oct. 18, 1973, 87 Stat. 450.)

REFERENCES IN TEXT

The Water Bank Act, referred to in the text, is classified to chapter 29 (§ 1301 et seq.) of this title.

AMENDMENTS

1973—Pub. L. 93–125 provided for corrective changes in format of this section by transferring pars. (1) to (4) to section 1503(a) of this title, which, as originally enacted, contained pars. (5) and (6) but failed to contain pars. (1) to (4). See section 1503(a) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1507, 1508 of this title.

§ 1502. Plan of farming operations or land use; necessity for contract applicants to furnish Secretary; contents of plan.

Eligible landowners and operators for contracts under this chapter shall furnish to the Secretary a plan of farming operations or land use which incorporates such practices and principles as may be determined by him to be practicable and which outlines a schedule of proposed changes, if any, in cropping systems or land use and of the conservation measures which are to be carried out on the farm, ranch, wetland, forests, or other land during the contract period to protect the farm, ranch, wetland, forests or other land and surrounding areas, its wildlife, and nearby populace and communities from erosion, deterioration, pollution by natural and man-made causes or to insure an adequate supply of timber and related forest products. Said plans may also, in important migratory waterfowl nesting and breeding areas which are identified in a conservation plan developed in cooperation with a soil and water conservation district in which the lands are located, and under such rules and regulations as the Secretary may provide, include a schedule of proposed changes, if any, to conserve surface waters and preserve and improve habitat for migratory waterfowl and other wildlife resources and improve subsurface moisture, including, subject to the provisions of section 1501 of this title, the reduction of areas of new land coming into production, the enhancement of the natural beauty of the landscape, and the promotion of comprehensive and total water management study. (Pub. L. 91–524, title X, § 1002, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 242.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1503. Contracts.

(a) Approved conservation plans as basis; duties of landowner or operator under contracts.

Approved conservation plans of eligible landowners and operators developed in cooperation with the soil and water conservation district or the State forester or other appropriate State official in which their lands are situated shall form a basis for contracts under this chapter. Under the contract the landowner or operator shall agree—

(1) to effectuate the plan for his farm, ranch, forest, wetland, or other land substantially in accordance with the schedule outlined therein;

(2) to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder upon his violation of the contract at any stage during the time he has control of the land if the Secretary, after considering the recommendations of the Soil and Water Conservation District Board, or the State forester or other appropriate official in a contract entered into under the provisions of section 1509 of this title, determines that such

violation is of such a nature as to warrant termination of the contract, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if he determines that the violation by the owner or operator does not warrant termination of the contract;

(3) upon transfer of his right and interest in the farm, ranch, forest, wetland, or other land during the contract period to forfeit all rights to further payments or grants under the contract and refund to the United States all payments or grants received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the contract;

(4) not to adopt any practice specified by the Secretary in the contract as a practice which would tend to defeat the purposes of the contract;

(5) to comply with all applicable Federal, State, or local laws, and regulations, including those governing environmental protection and noxious weed abatement; and

(6) to such additional provisions as the Secretary determines are desirable and includes in the contract to effectuate the purposes of the program or to facilitate the practical administration of the program: *Provided,* That all contracts entered into to effectuate the purposes of the Water Bank Act for wetlands shall contain the further agreement of the owner or operator that he shall not drain, burn, fill, or otherwise destroy the wetland character of such areas, nor use such areas for agricultural purposes: *And provided further,* That contracts entered into for the protection of wetlands to effectuate the purposes of the Water Bank Act may include wetlands covered by Federal or State government easement which permits agricultural use, together with such adjacent areas as determined desirable by the Secretary.

(b) Duties of Secretary under contracts; shared costs.

In return for such agreement by the landowner or operator the Secretary shall agree to make payments in appropriate circumstances for the use of land maintained for conservation purposes as set forth in this chapter, and share the cost of carrying out those conservation practices and measures set forth in the contract for which he determines that cost-sharing is appropriate and in the public interest. The portion of such cost (including labor) to be shared shall be that part which the Secretary determines is necessary and appropriate to effectuate the physical installation of the conservation practices and measures under the contract, but, in the case of a contract not entered into under an advertising and bid procedure under the provisions of section 1509(d) of this title, not less than 50 per centum or more than 75 per centum of the actual costs incurred by the owner or operator.

(c) Termination and modification of contracts.

The Secretary may terminate any contract with a landowner or operator by mutual agreement with the owner or operator if the Secretary determines that such termination would be in the public interest, and may agree to such modification of contracts previously entered into as he may determine to be desirable to carry out the purposes of the program or facilitate the practical administration thereof or to accomplish equitable treatment with respect to other similar conservation, land use, or commodity programs administered by the Secretary. (Pub. L. 91–524, title X, § 1003, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 242, and amended Pub. L. 93–125, § 1(g)(1), Oct. 18, 1973, 87 Stat. 450.)

REFERENCES IN TEXT

The Water Bank Act, referred to in subsec. (a)(6), is classified to chapter 29 (§ 1301 et seq.) of this title.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–125 provided for corrective changes in format, which as originally enacted, contained pars. (5) and (6) but failed to contain pars. (1) to (4), by transferring from section 1501 of this title pars. (1) to (4) as set out herein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1508, 1509 of this title.

§ 1504. Authority of Secretary to furnish eligible owners and operators conservation materials, etc.

The Secretary is authorized to make available to eligible owners and operators conservation materials including seeds, seed inoculants, soil conditioning materials, trees, plants, and, if he determines it is appropriate to the purposes of this chapter, fertilizer and liming materials. (Pub. L. 91–524, title X, § 1004, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 243.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1505. Multiyear set-aside contracts; contracting authority of Secretary; duration of contracts; eligibility of producers; duties of producers under contracts; cost-sharing incentives for farm operators.

(a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1977 crop. Such contracts may be entered into only as a part of the programs in effect for wheat, feed grains, and cotton for the years 1974 through 1978, and only producers participating in one or more of such programs shall be eligible to contract with the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

(b) The Secretary shall provide cost-sharing incentives to farm operators for such cover establishment, whenever a multiyear contract is entered into on all or a portion of the set-aside acreage. (Pub. L. 91–524, title X, § 1005, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 243.)

REFERENCES IN TEXT

Any other title, referred to in subsec. (a), probably has reference to any other title of Pub. L. 91–524. For distribution of such law in this Code, see Short Title note set out under section 1305 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1507, 1508 of this title.

§ 1506. Rules and regulations; limitations on total acreage retired from production pursuant to contracts.

The Secretary shall issue such regulations as he determines necessary to carry out the provisions of this chapter. The total acreage placed under agreements which result in their retirement from production in any county or local community shall in addition to the limitations elsewhere in this chapter be limited to a percentage of the total eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. In determining such percentage the Secretary shall give appropriate consideration to the productivity of the acreage being retired, if any, as compared to the average productivity of eligible acreage in such county or local community which the Secretary determines would not adversely affect the economy of the county or local community. (Pub. L. 91–524, title X, § 1006, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 244.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1507. Advisory boards.

(a) State boards; functions; membership; appointment and qualifications of members; meetings.

The Secretary of Agriculture shall appoint an advisory board in each State to advise the State committee of that State (established under section 590h (b) of this title) regarding the types of conservation measures that should be approved to effectuate the purposes of this chapter. The Secretary shall appoint at least six individuals to the advisory board of each State who are especially qualified by reason of education, training, and experience in the fields of agriculture, soil, water, wildlife, fish, and forest management. The advisory board appointed for any State shall meet at least once each calendar year. Said appointed members shall include, but not be limited to the State soil conservationist, the State forester, the State administrator of the water quality programs, and the State wildlife administrator or their designees: *Provided,* That such board shall limit its advice to the State committees to the types of conservation measures that should be approved affecting the water bank program; the authorization to purchase perpetual easements to promote the purposes of this chapter, as described in section 1501 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1505 of this title.

(b) National board; establishment in consultation with Secretary of Interior; functions and duties.

The Secretary of Agriculture, through the establishment of a national advisory board to be named in consultation with the Secretary of the Interior, shall seek the advice and assistance of the appropriate officials of the several States in developing the programs under this chapter, especially in developing guidelines for (1) providing technical assistance for wildlife habitat improvement practices, (2) evaluating effects on surrounding areas, (3) considering aesthetic values, (4) checking compliance by cooperators, and (5) carrying out programs of wildlife management authorized under this chapter: *Provided,* That such board shall limit its advice to subjects which cover the types of conservation measures that should be approved regarding the water bank program; the authorization to purchase perpetual easements to promote the purposes of this Act, as described in section 1501 of this title; the providing of long-term upland game cover; and the establishment and management of approved practices on multiyear set-aside contracts as provided in section 1505 of this title. (Pub. L. 91–524, title X, § 1007, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 244, and amended Pub. L. 93–125, § 1(g)(ii), Oct. 18, 1973, 87 Stat. 450.)

REFERENCES IN TEXT

This Act, referred to in the text, is the Agricultural Act of 1970. For distribution of such Act in this Code, see Short Title note set out under section 1305 of Title 7, Agriculture.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93–125 substituted "section 1505 of this title." for "section 1505 of this title:".

§ 1508. Coordination with and utilization by Secretary of Federal, State, and local services and facilities to carry out programs and plans.

In carrying out the programs authorized under sections 1501 through 1506 of this title, the Secretary shall, in addition to appropriate coordination with other interested Federal, State, and local agencies, utilize the services of local, county, and State committees established under section 590h of this title. The Secretary is also authorized to utilize the facilities and services of the Commodity Credit Corporation in discharging his functions and responsibilities under this program. The Secretary shall also utilize the technical services of the Soil Conservation Service, the Forest Service, State forestry organizations, soil and water conservation districts, and other State, and Federal agencies, as appropriate, in development and installation of approved conservation plans under this chapter. (Pub. L. 91–524, title X, § 1008, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 244.)

§ 1509. Forestry incentives program.

(a) Establishment and purposes of program.

In furtherance of the purposes of this chapter, the Secretary of Agriculture is authorized and directed to develop and carry out a forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such a program shall be to encourage landowners to apply practices which will provide for the afforestation of suitable open lands and reforestation of cutover and other nonstocked and understocked forest lands and intensive multiple-purpose management and protection of forest resources so as to provide for production of timber and related benefits.

(b) Definition.

For the purposes of this section, the term "nonindustrial private forest lands" means lands capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, or other legal entity. Such term does not include private entities which regularly engage in the

business of manufacturing forest products or providing public utilities services of any type, or the subsidiaries of such entities.

(c) Consultations by Secretary; criteria for distribution of funds by Secretary for cost-sharing; approval of contracts for tracts greater than 500 acres.

The Secretary shall consult with the State forester or other appropriate official of the respective States in the conduct of the forestry incentives program under this section, and Federal assistance shall be extended in accordance with section 1503(b) of this title. The Secretary shall for the purposes of this section distribute funds available for cost sharing among and within the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to the number and acreage of commercial forest lands, number of eligible ownerships in the State, and counties to be served by such cost sharing; the potential productivity of such lands; and the need for reforestation, timber stand improvement, or other forestry investments on such land. No forest incentives contract shall be approved under this section on a tract greater than five hundred acres, unless the Secretary finds that significant public benefit will be incident to such approval.

(d) Advertising and bid procedure for contracts.

The Secretary may, if he determines that such action will contribute to the effective and equitable administration of the program established by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements.

(e) Implementation of program; periodic reports to appropriate Congressional committees.

In implementing the program under this section, the Secretary will cause it to be coordinated with other related programs in such a manner as to encourage the utilization of private agencies, firms, and individuals furnishing services and materials needed in the application of practices included in the forestry incentives improvement program. The Secretary shall periodically report to the appropriate congressional committees of the progress and conduct of the program established under this section. (Pub. L. 91–524, title X, § 1009, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 245.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1510 of this title.

§ 1510. Authorization of appropriations; construction and continuation of programs, contracts, and authorities; limitation on authorization of appropriation for forestry incentives program.

There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this chapter. The programs, contracts, and authority authorized under this chapter shall be in addition to, and not in substitution for, other programs in such areas authorized by this chapter or any other title or Act, and shall not expire with the termination of any other title or Act: *Provided*, That not more than $25,000,000 annually shall be authorized to be appropriated for the programs authorized under section 1509 of this title. (Pub. L. 91–524, title X, § 1010, as added Pub. L. 93–86, § 1(28), Aug. 10, 1973, 87 Stat. 245.)

REFERENCES IN TEXT

"Any other title or Act", referred to in the text, has reference to any other title of Pub. L. 91–524. For distribution of such title in this Code, see Short Title note set out under section 1305 of Title 7, Agriculture.

Chapter 35.—ENDANGERED SPECIES [NEW]

Sec.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1362, 1371, 1372 of this title; title 7 section 136.

§ 1531. Congressional findings and declaration of purposes and policy.

(a) The Congress finds and declares that—

(1) various species of fish, wildlife, and plants in the United States have been rendered extinct as

a consequence of economic growth and development untempered by adequate concern and conservation;

(2) other species of fish, wildlife, and plants have been so depleted in numbers that they are in danger of or threatened with extinction;

(3) these species of fish, wildlife, and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of fish or wildlife and plants facing extinction, pursuant to—

(A) migratory bird treaties with Canada and Mexico;

(B) the Migratory and Endangered Bird Treaty with Japan;

(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

(D) the International Convention for the Northwest Atlantic Fisheries;

(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

(F) the Convention on International Trade in Endangered Species of Wild Fauna and Flora; and

(G) other international agreements.

(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's heritage in fish and wildlife.

(b) The purposes of this chapter are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

(c) It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this chapter. (Pub. L. 93–205, § 2, Dec. 28, 1973, 87 Stat. 884.)

EFFECTIVE DATE

Section 16 of Pub. L. 93–205 provided that: "This Act [enacting this chapter, amending sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, Agriculture, repealing sections 668aa to 668cc–6 of this title, and enacting provisions set out as notes under this section] shall take effect on the date of its enactment [Dec. 28, 1973]."

SHORT TITLE

Section 1 of Pub. L. 93–205 provided: "That this Act [enacting this chapter, amending sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, Agriculture, repealing sections 668aa to 668cc–6 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Endangered Species Act of 1973'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1539 of this title.

§ 1532. Definitions.

For the purpose of this chapter—

(1) The term "commercial activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling.

(2) The terms "conserve", "conserving", and "conservation" mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(3) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(4) The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.

(5) The term "fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(6) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(7) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(8) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(9) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(10) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this chapter and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(11) The term "species" includes any subspecies of fish or wildlife or plants and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed with mature.

(12) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(13) The term "State agency" means the State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish or wildlife resources within a State.

(14) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(15) The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(16) The term "United States", when used in a geographical context, includes all States.

(Pub. L. 93–205, § 3, Dec. 28, 1973, 87 Stat. 885.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970, referred to in par. (10), is set out as a note under section 1511 of this title.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 1533. Determination of endangered species and threatened species.

(a) Generally.

(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

(1) the present or threatened destruction, modification, or curtailment of its habitat or range;

(2) overutilization for commercial, sporting, scientific, or educational purposes;

(3) disease or predation;

(4) the inadequacy of existing regulatory mechanisms; or

(5) other natural or manmade factors affecting its continued existence.

(2) With respect to any species over which program responsibilities have been vested in the Secretary of Commerce pursuant to Reorganization Plan Numbered 4 of 1970—

(A) in any case in which the Secretary of Commerce determines that such species should—

(i) be listed as an endangered species or a threatened species, or

(ii) be changed in status from a threatened species to an endangered species,

he shall so inform the Secretary of the Interior; who shall list such species in accordance with this section;

(B) in any case in which the Secretary of Commerce determines that such species should—

(i) be removed from any list published pursuant to subsection (c) of this section, or

(ii) be changed in status from an endangered species to a threatened species,

he shall recommend such action to the Secretary of the Interior, and the Secretary of the Interior, if he concurs in the recommendation, shall implement such action; and

(C) the Secretary of the Interior may not list or remove from any list any such species, and may not change the status of any such species which are listed, without a prior favorable determination made pursuant to this section by the Secretary of Commerce.

(b) Basis for determinations.

(1) The Secretary shall make determinations required by subsection (a) of this section on the basis of the best scientific and commercial data available to him and after consultation, as appropriate, with the affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned is normally found or whose citizens harvest such species on the high seas; except that in any case in which such determinations involve resident species of fish or wildlife, the Secretary of the Interior may not add such species to, or remove such species from, any list published pursuant to subsection (c) of this section, unless the Secretary has first—

(A) published notice in the Federal Register and notified the Governor of each State within which such species is then known to occur that such action is contemplated;

(B) allowed each such State 90 days after notification to submit its comments and recommendations, except to the extent that such period may be shortened by agreement between the Secretary and the Governor or Governors concerned; and

(C) published in the Federal Register a summary of all comments and recommendations received by him which relate to such proposed action.

(2) In determining whether or not any species is an endangered species or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect such species, whether by predator control, protection of habitat

and food supply, or other conservation practices, within any area under the jurisdiction of any such nation or political subdivision, or on the high seas.

(3) Species which have been designated as requiring protection from unrestricted commerce by any foreign country, or pursuant to any international agreement, shall receive full consideration by the Secretary to determine whether each is an endangered species or a threatened species.

(c) Lists.

(1) The Secretary of the Interior shall publish in the Federal Register, and from time to time he may by regulation revise, a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered or threatened.

(2) The Secretary shall, upon the petition of an interested person under section 553(e) of Title 5, conduct a review of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review.

(3) Any list in effect on December 27, 1973, of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction shall be republished to conform to the classification for endangered species or threatened species, as the case may be, provided for in this chapter, but until such republication, any such species so listed shall be deemed an endangered species within the meaning of this chapter. The republication of any species pursuant to this paragraph shall not require public hearing or comment under section 553 of Title 5.

(d) Protective regulations.

Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 1538(a)(1) of this title, in the case of fish or wildlife, or section 1538(a)(2) of this title, in the case of plants, with respect to endangered species; except that with respect to the taking of resident species of fish or wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 1535(a) of this title only to the extent that such regulations have also been adopted by such State.

(e) Similarity of appearance cases.

The Secretary may, by regulation, and to the extent he deems advisable, treat any species as an endangered species or threatened species even though it is not listed pursuant to this section if he finds that—

(A) such species so closely resembles in appearance, at the point in question, a species which has been listed pursuant to such section that enforcement personnel would have substantial difficulty in attempting to differentiate between the listed and unlisted species;

(B) the effect of this substantial difficulty is an additional threat to an endangered or threatened species; and

(C) such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of this chapter.

(f) Regulations.

(1) Except as provided in paragraphs (2) and (3) of this subsection and subsection (b) of this section, the provisions of section 553 of Title 5 (relating to rulemaking procedures), shall apply to any regulation promulgated to carry out the purposes of this chapter.

(2)(A) In the case of any regulation proposed by the Secretary to carry out the purposes of this chapter—

(i) the Secretary shall publish general notice of the proposed regulation (including the complete text of the regulation) in the Federal Register not less than 60 days before the effective date of the regulation; and

(ii) if any person who feels that he may be adversely affected by the proposed regulation files (within 45 days after the date of publication of general notice) objections thereto and requests a public hearing thereon, the Secretary may grant such request, but shall, if he denies such request, publish his reasons therefor in the Federal Register.

(B) Neither subparagraph (A) of this paragraph nor section 553 of Title 5 shall apply in the case of any of the following regulations and any such regulation shall, at the discretion of the Secretary, take effect immediately upon publication of the regulation in the Federal Register:

(i) Any regulation appropriate to carry out the purposes of this chapter which was originally promulgated to carry out the Endangered Species Conservation Act of 1969.

(ii) Any regulation (including any regulation implementing section 1535(g)(2)(B)(ii) of this title) issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife, but only if (I) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary, and (II) in the case such regulation applies to resident species of fish and wildlife, the requirements of subsection (b) (A), (B), and (C) of this section have been complied with. Any regulation promulgated under the authority of this clause (ii) shall cease to have force and effect at the close of the 120-day period following the date of publication unless, during such 120-day period, the rulemaking procedures which would apply to such regulation without regard to this subparagraph are complied with.

(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this chapter shall include a statement by the Secretary of the facts on which such regulation is based and the relationship of such facts to such regulation. (Pub. L. 93–205, § 4, Dec. 28, 1973, 87 Stat. 886.)

REFERENCES IN TEXT

Reorganization Plan Numbered 4 of 1970, referred to in subsec. (a)(2), is set out as a note under section 1511 of this title.

The Endangered Species Conservation Act of 1969, referred to in subsecs. (c)(3) and (f)(2)(B)(i), was classified to section 668aa et seq. of this title.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460k–1, 668dd, 670h, 715i, 715s, 1402, 1534–1540 of this title.

§ 1534. Land acquisition.

(a) The Secretary of the Interior shall establish and implement a program to conserve (A) fish or wildlife which are listed as endangered species or threatened species pursuant to section 1533 of this title; or (B) plants which are concluded in Appendices to the Convention. To carry out such program, he—

(1) shall utilize the land acquisition and other authority under the Fish and Wildlife Act of 1956, as amended, the Fish and Wildlife Coordination Act, as amended, and the Migratory Bird Conservation Act, as appropriate; and

(2) is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him.

(b) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section. (Pub. L. 93–205, § 5, Dec. 28, 1973, 87 Stat. 889.)

REFERENCES IN TEXT

The Fish and Wildlife Act of 1956, as amended, referred to in subsec. (a)(1), is classified to section 742a et seq. of this title.

The Fish and Wildlife Coordination Act, as amended, referred to in subsec. (a)(1), is classified to section 661 et seq. of this title.

The Migratory Bird Conservation Act, referred to in subsec. (a)(1), is classified to section 715 et seq. of this title.

The Land and Water Conservation Fund Act of 1965, as amended, referred to in subsec. (b), is classified to section 460*l*–4 et seq. of this title.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460*l*–9 of this title.

§ 1535. Cooperation with the States.

(a) Generally.

In carrying out the program authorized by this chapter, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species or threatened species.

(b) Management agreements.

The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species or threatened species. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 715s of this title.

(c) Cooperative agreements.

In furtherance of the purposes of this chapter, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this subsection, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(1) authority resides in the States agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(2) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(3) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(4) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered species or threatened species; and

(5) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened.

(d) Allocation of funds.

(1) The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species. The

Secretary shall make an allocation of appropriated funds to such States based on consideration of—

(A) the international commitments of the United States to protect endangered species or threatened species;

(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this chapter;

(C) the number of endangered species and threatened species within a State;

(D) the potential for restoring endangered species and threatened species within a State; and

(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.

(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with the conservation of endangered or threatened species; (C) the estimated cost of these actions; and (D) the share of such costs to be borne by the Federal Government and by the States; except that—

(i) the Federal share of such program costs shall not exceed 66⅔ per centum of the estimated program cost stated in the agreement; and

(ii) the Federal share may be increased to 75 per centum whenever two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of money or real property, the value of which will be determined by the Secretary, whose decision shall be final.

(e) Review of State programs.

Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

(f) Conflicts between Federal and State laws.

Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effectively (1) permit what is prohibited by this chapter or by any regulation which implements this chapter, or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this chapter or in any regulation which implements this chapter. This chapter shall not otherwise be construed to void any State law or regulation which is intended to conserve migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this chapter or in any regulation which implements this chapter but not less restrictive than the prohibitions so defined.

(g) Transition.

(1) For purposes of this subsection, the term "establishment period" means, with respect to any State, the period beginning on December 28, 1973, and ending on whichever of the following dates first occurs: (A) the date of the close of the 120-day period following the adjournment of the first regular session of the legislature of such State which commences after December 28, 1973, or (B) the date of the close of the 15-month period following December 28, 1973.

(2) The prohibitions set forth in or authorized pursuant to sections 1533(d) and 1538(a)(1)(B) of this title shall not apply with respect to the taking of any resident endangered species or threatened species (other than species listed in Appendix I to the Convention or otherwise specifically covered by any other treaty or Federal law) within any State—

(A) which is then a party to a cooperative agreement with the Secretary pursuant to subsection (c) of this section (except to the extent that the taking of any such species is contrary to the law of such State); or

(B) except for any time within the establishment period when—

(i) the Secretary applies such prohibition to such species at the request of the State, or

(ii) the Secretary applies such prohibition after he finds, and publishes his finding, that an emergency exists posing a significant risk to the well-being of such species and that the prohibition must be applied to protect such species. The Secretary's finding and publication may be made without regard to the public hearing or comment provisions of section 553 of Title 5 or any other provision of this chapter; but such prohibition shall expire 90 days after the date of its imposition unless the Secretary further extends such prohibition by publishing notice and a statement of justification of such extension.

(h) Regulations.

The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

(i) Authorization of appropriations.

For the purposes of this section, there is authorized to be appropriated through the fiscal year ending June 30, 1977, not to exceed $10,000,000. (Pub. L. 93–205, § 6, Dec. 28, 1973, 87 Stat. 889.)

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 668dd, 1533, 1538, 1540, 1542 of this title.

§ 1536. Interagency cooperation.

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 1533 of this title and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical. (Pub. L. 93–205, § 7, Dec. 28, 1973, 87 Stat. 892.)

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 1537. International cooperation.

(a) Financial assistance.

As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 724 of Title 31, use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 1533 of this title. The President shall provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference to funds appropriated under the authority of section 1542 of this title.

(b) Encouragement of foreign programs.

In order to carry out further the provisions of this chapter, the Secretary, through the Secretary of State, shall encourage—

(1) foreign countries to provide for the conservation of fish or wildlife including endangered species and threatened species listed pursuant to section 1533 of this title;

(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

(3) foreign persons who directly or indirectly take fish or wildlife in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such fish or wildlife and their habitat.

(c) Personnel.

After consultation with the Secretary of State, the Secretary may—

(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of fish or wildlife; and

(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in fish, wildlife, or plant management, research and law enforcement and to render professional assistance abroad in such matters.

(d) Investigations.

After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this chapter.

(e) Convention implementation.

The President is authorized and directed to designate agencies to act as the Management Authority or Authorities and the Scientific Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere. (Pub. L. 93–205, § 8, Dec. 28, 1973, 87 Stat. 892.)

REFERENCES IN TEXT

The Agricultural Trade Development and Assistance Act of 1954, referred to in subsec. (a), is classified to section 1691 et seq. of Title 7, Agriculture.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 1538. Prohibited acts.

(a) Generally.

(1) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of fish or wildlife listed pursuant to section 1533 of this title it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from the United States;

(B) take any such species within the United States or the territorial sea of the United States;

(C) take any such species upon the high seas;

(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity, any such species;

(F) sell or offer for sale in interstate or foreign commerce any such species; or

(G) violate any regulation pertaining to such species or to any threatened species of fish or wildlife listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

(2) Except as provided in sections 1535(g)(2) and 1539 of this title, with respect to any endangered species of plants listed pursuant to section 1533 of this title, it is unlawful for any person subject to the jurisdiction of the United States to—

(A) import any such species into, or export any such species from, the United States;

(B) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

(C) sell or offer for sale in interstate or foreign commerce any such species; or

(D) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 1533 of this title and promulgated by the Secretary pursuant to authority provided by this chapter.

(b) Species held in captivity or controlled environment.

The provisions of this section shall not apply to any fish or wildlife held in captivity or in a controlled environment on December 28, 1973, if the purposes of such holding are not contrary to the purposes of this chapter; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity. With respect to any act prohibited by this section which occurs after a period of 180 days from December 28, 1973, there shall be a rebuttable presumption that the fish or wildlife involved in such act was not held in captivity or in a controlled environment on December 28, 1973.

(c) Violation of Convention.

(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof.

(2) Any importation into the United States of fish or wildlife shall, if—

(A) such fish or wildlife is not an endangered species listed pursuant to section 1533 of this title but is listed in Appendix II to the Convention,

(B) the taking and exportation of such fish or wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied,

(C) the applicable requirements of subsections (d), (e), and (f) of this section have been satisfied, and

(D) such importation is not made in the course of a commercial activity,

be presumed to be an importation not in violation of any provision of this chapter or any regulation issued pursuant to this chapter.

(d) Imports and exports.

(1) It is unlawful for any person to engage in business as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 1533 of this title as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained permission from the Secretary.

(2) Any person required to obtain permission under paragraph (1) of this subsection shall—

(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, or plants made by him and the subsequent disposition made by him with respect to such fish, wildlife, or plants;

(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, an opportunity to examine his inventory of imported fish, wildlife, or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

(C) file such reports as the Secretary may require.

(3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

(e) Reports.

It is unlawful for any person importing or exporting fish or wildlife (other than shellfish and fishery products which (1) are not listed pursuant to section 1533 of this title as endangered or threatened species, and (2) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this chapter or to meet the obligations of the Convention.

(f) Designation of ports.

(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any fish or wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 1533 of this title as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary of the Interior. For the purpose of facilitating enforcement of this chapter

and reducing the costs thereof, the Secretary of the Interior, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary of the Interior, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of the fish or wildlife or plants, or for other reasons, if, in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

(2) Any port designated by the Secretary of the Interior under the authority of section 668cc–4 (d) of this title, shall, if such designation is in effect on December 27, 1973, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

(g) Violations.

It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in his section. (Pub. L. 93–205, § 9, Dec. 28, 1973, 87 Stat. 893.)

REFERENCES IN TEXT

Section 668cc–4(d) of this title, referred to in subsec. (f)(2), was repealed by section 14 of Pub. L. 93–205.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1533, 1535, 1539, 1540, 1542 of this title.

§ 1539. Exceptions.

(a) Permits.

The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 1538 of this title for scientific purposes or to enhance the propagation or survival of the affected species.

(b) Hardship exemptions.

(1) If any person enters into a contract with respect to a species of fish or wildlife or plant before the date of the publication in the Federal Register of notice of consideration of that species as an endangered species and the subsequent listing of that species as an endangered species pursuant to section 1533 of this title will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 1538(a) of this title to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that (A) no such exemption shall be for a duration of more than one year from the date of publication in the Federal Register of notice of consideration of the species concerned, or shall apply to a quantity of fish or wildlife or plants in excess of that specified by the Secretary; (B) the one-year period for those species of fish or wildlife listed by the Secretary as endangered prior to December 28, 1973, shall expire in accordance with the terms of section 668cc–3 of this title; and (C) no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used in a commercial activity.

(2) As used in this subsection, the term "undue economic hardship" shall include, but not be limited to:

(A) substantial economic loss resulting from inability caused by this chapter to perform contracts with respect to species of fish and wildlife entered into prior to the date of publication in the Federal Register of a notice of consideration of such species as an endangered species;

(B) substantial economic loss to persons who, for the year prior to the notice of consideration of such species as an endangered species, derived a substantial portion of their income from the lawful taking of any listed species, which taking would be made unlawful under this chapter; or

(C) curtailment of subsistence taking made unlawful under this chapter by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

(c) Notice and review.

The Secretary shall publish notice in the Federal Register of each application for an exemption or permit which is made under this subsection. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

(d) Permit and exemption policy.

The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds and publishes his finding in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 1531 of this title.

(e) Alaska natives.

(1) Except as provided in paragraph (4) of this subsection the provisions of this chapter shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

(B) any non-native permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Non-edible byproducts of species taken pursuant to this section may be sold in interstate commerce

when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any non-native resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of fish and wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

(2) Any taking under this subsection may not be accomplished in a wasteful manner.

(3) As used in this subsection—

(i) The term "subsistence" includes selling any edible portion of fish or wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

(ii) The term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacking, beading, drawing, and painting.

(4) Notwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this chapter. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 1373 of this title, and shall be removed as soon as the Secretary determines that the need for their impositions has disappeared. (Pub. L. 93–205, § 10, Dec. 28, 1973, 87 Stat. 896.)

REFERENCES IN TEXT

Section 668cc–3 of this title, referred to in subsec. (b), was repealed by section 14 of Pub. L. 93–205.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1538 of this title.

§ 1540. Penalties and enforcement.

(a) Civil penalties.

(1) Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of this chapter, or any provision of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1) (A), (B), (C), (D), (E), or (F), (a) (2) (A), (B), or (C), (c), (d) (other than regulation relating to recordkeeping or filing of reports), (f) or (g) of section 1538 of this title, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of any other regulation issued under this chapter may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Any person who otherwise violates any provision of this chapter, or any regulation, permit, or certificate issued hereunder, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of Title 5. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) Criminal violations.

(1) Any person who willfully commits an act which violates any provision of this chapter, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a) (1) (A), (B), (C), (D), (E), or (F); (a) (2) (A), (B), or (C), (c), (d) (other than a regulation relating to recordkeeping, or filing of reports), (f), or (g) of section 1538 of this title shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who willfully commits an act which violates any provisions of any other regulation issued under this chapter shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement

authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this chapter or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(c) District court jurisdiction.

The several district courts of the United States, including the courts enumerated in section 460 of Title 28, shall have jurisdiction over any actions arising under this chapter. For the purpose of this chapter, American Samoa shall be included within the judicial district of the District Court of the United States for the District of Hawaii.

(d) Rewards.

Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal volation of any provsion of this chapter or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

(e) Enforcement.

(1) The provisions of this chapter and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this chapter.

(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this chapter and any regulation issued thereunder.

(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating, to enforce this chapter may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this chapter. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any fish, wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the Department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such fish, wildlife, property, or item pursuant to paragraph (4) of this subsection; except that the Secretary may, in lieu of holding such fish, wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary.

(4)(A) All fish or wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this chapter, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any fish or wildlife or plants in violation of this chapter, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to subsection (b)(1) of this section.

(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this chapter, be exercised or performed by the Secretary or by such persons as he may designate.

(f) Regulations.

The Secretary, the Secretary of the Treasury, and the Secretary of the Department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this chapter, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this chapter including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of fish or wildlife or plants and evidentiary items seized and forfeited under this chapter. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

(g) Citizen suits.

(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf—

(A) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this chapter or regulation issued under the authority thereof; or

(B) to compel the Secretary to apply, pursuant to section 1535(g)(2)(B)(ii) of this title, the prohibitions set forth in or authorized pursuant to section 1533(d) or 1538(a)(1)(B) of this title with respect to the taking of any resident endangered species or threatened species within any State.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any such provision or regulation, as the case may be. In any civil suit commenced under subparagraph (B) the district court shall compel the Secretary to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

(2)(A) No action may be commenced under subparagraph (1)(A) of this section—

(i) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

(ii) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of this section; or

(iii) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

(B) No action may be commenced under subparagraph (1)(B) of this section—

(i) prior to sixty days after written notice has been given to the Secretary setting forth the reasons why an emergency is thought to exist with respect to an endangered species or a threatened species in the State concerned; or

(ii) if the Secretary has commenced and is diligently prosecuting action under section 1535(g)(2)(B)(ii) of this title to determine whether any such emergency exists.

(3)(A) Any suit under this subsection may be brought in the judicial district in which the violation occurs.

(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

(h) Coordination with other laws.

The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of this chapter with the administration of the animal quarantine laws (sections 101 to 105, 111 to 135b, and 612 to 614 of Title 21) and section 1306 of Title 19. Nothing in this chapter or any amendment made by this Act shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibited or restricted importations or possession of animals and other articles and no proceeding or determination under this chapter shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this chapter shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, without limitation, section 1527 of Title 19, relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country. (Pub. L. 93–205, § 11, Dec. 28, 1973, 87 Stat. 897.)

REFERENCES IN TEXT

The amendments "made by this Act", referred to in subsec. (h), refer to the amendments made by Pub. L. 93–205, which amended sections 460k–1, 460*l*–9, 668dd, 715i, 715s, 1362, 1371, 1372, and 1402 of this title and section 136 of Title 7, and repealed sections 668aa to 668cc–6 of this title.

The Tariff Act of 1930, referred to in subsec. (h), is classified to section 1202 et seq. of Title 19, Customs Duties.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 1541. Endangered plants.

The Secretary of the Smithsonian Institution, in conjunction with other affected agencies, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of adequately conserving such species, and to report to Congress, within one year after December 28, 1973, the results of such review including recommendations for new legislation or the amendment of existing legislation. (Pub. L. 93–205, § 12, Dec. 28, 1973, 87 Stat. 901.)

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

§ 1542. Authorization of appropriations.

Except as authorized in section 1535 of this title, there are authorized to be appropriated—

(A) not to exceed $4,000,000 for fiscal year 1974, not to exceed $8,000,000 for fiscal year 1975 and not to exceed $10,000,000 for fiscal year 1976, to enable the Department of the Interior to carry out

such functions and responsibilities as it may have been given under this chapter; and

(B) not to exceed $2,000,000 for fiscal year 1974, $1,500,000 for fiscal year 1975 and not to exceed $2,000,000 for fiscal year 1976, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this chapter.

(Pub. L. 93–205, § 15, Dec. 28, 1973, 87 Stat. 903.)

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1537 of this title.

§ 1543. Construction with Marine Mammal Protection Act of 1972.

Except as otherwise provided in this chapter, no provision of this chapter shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972. (Pub. L. 93–205, § 17, Dec. 28, 1973, 87 Stat. 903.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in text, is Pub. L. 92–522, Oct. 21, 1972, 86 Stat. 1027, which is classified to section 1361 et seq. of this title.

EFFECTIVE DATE

Section effective Dec. 28, 1973, see section 16 of Pub. L. 93–205, set out as a note under section 1531 of this title.

Chapter 36.—FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING [NEW]

Sec.

1601. Renewable Resource Assessment; preparation by Secretary of Agriculture; time of preparation, updating and contents.
1602. Renewable Resource Program; preparation by Secretary of Agriculture and transmittal to President; purpose and development of program; time of preparation, updating and contents.
1603. National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment.
1604. National Forest System land and resource management plans; development, maintenance and revision by Secretary of Agriculture as part of Program; coordination; criteria.
1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.
1606. Budget requests by President for Forest Service activities.
(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval.
(b) Contents of requests to show extent of compliance of projected programs and policies with policies approved by Congress; requests not conforming to approved policies; expenditure of appropriations.
(c) Annual evaluation report to Congress of Program components; time of submission.
(d) Required contents of annual evaluation report.
(e) Additional required contents of annual evaluation report.
(f) Form of annual evaluation report.
1607. National Forest System renewable resources; development and administration by Secretary of Agriculture in accordance with multiple use and sustained yield concepts for products and services; target year for operational posture of resources; budget requests.
1608. National Forest Transportation System; Congressional declaration of policy; time for development; method of financing; financing of forest development roads.
1609. National Forest System; Congressional declaration of constituent elements and purposes; lands, etc., included within; location of Forest Service offices.
1610. Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc., definition of "renewable resource".

§ 1601. Renewable Resource Assessment; preparation by Secretary of Agriculture; time of preparation, updating and contents.

In recognition of the vital importance of America's renewable resources of the forest, range, and other associated lands to the Nation's social and economic well-being, and of the necessity for a long term perspective in planning and undertaking related national renewable resource programs administered by the Forest Service, the Secretary of Agriculture shall prepare a Renewable Resource Assessment (hereinafter called the "Assessment"). The Assessment shall be prepared not later than December 31, 1975, and shall be updated during 1979 and each tenth year thereafter, and shall include but not be limited to—

(1) an analysis of present and anticipated uses, demand for, and supply of the renewable resources, with consideration of the international resource situation, and an emphasis of pertinent supply and demand and price relationship trends;

(2) an inventory, based on information developed by the Forest Service and other Federal agencies, of present and potential renewable resources, and an evaluation of opportunities for improving their yield of tangible and intangible goods and services, together with estimates of investment costs and direct and indirect returns to the Federal Government;

(3) a description of Forest Service programs and responsibilities in research, cooperative programs and management of the National Forest System, their interrelationships, and the relationship of these programs and responsibilities to public and private activities; and

(4) a discussion of important policy considerations, laws, regulations, and other factors expected to influence and affect significantly the use, ownership, and management of forest, range, and other associated lands.

(Pub. L. 93–378, § 2(a), Aug. 17, 1974, 88 Stat. 476.)

SHORT TITLE

Section 1 of Pub. L. 93–378 provided: "That this Act [which enacted this chapter and amended section 581h of this title] may be cited as the 'Forest and Rangeland Renewable Resources Planning Act of 1974'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1606 of this title.

§ 1602. Renewable Resource Program; preparation by Secretary of Agriculture and transmittal to President; purpose and development of program; time of preparation, updating and contents.

In order to provide for periodic review of programs for management and administration of the National Forest System, for research, for cooperative State and private Forest Service programs, and for conduct of other Forest Service activities in relation to the findings of the Assessment, the Secretary of Agriculture, utilizing information available to the Forest Service and other agencies within the Department of Agriculture, including data prepared pursuant to section 1010a of Title 7, shall prepare and transmit to the President a recommended Renewable Resource Program (hereinafter called the "Program"). The Program transmitted to the President may include alternatives, and shall provide in appropriate detail for protection, management, and development of the National Forest System, including forest development roads and trails; for cooperative Forest Service programs; and for research. The Program shall be developed in accordance with principles set forth in the Multiple-Use Sustained-Yield Act of 1960, and the National Environmental Policy Act of 1969. The Program shall be prepared not later than December 31, 1975, to cover the four-year period beginning October 1, 1976, and at least each of the four fiscal decades next following such period, and shall be updated no later than during the first half of the fiscal year ending September 30, 1980, and the first half of each fifth fiscal year thereafter to cover at least each of the four fiscal decades beginning next after such updating. The Program shall include, but not be limited to—

(1) an inventory of specific needs and opportunities for both public and private program investments. The inventory shall differentiate between activities which are of a capital nature and those which are of an operational nature;

(2) specific identification of Program outputs, results anticipated, and benefits associated with investments in such a manner that the anticipated costs can be directly compared with the total related benefits and direct and indirect returns to the Federal Government;

(3) a discussion of priorities for accomplishment of inventoried Program opportunities, with specified costs, outputs, results, and benefits; and

(4) a detailed study of personnel requirements as needed to satisfy existing and ongoing programs.

(Pub. L. 93–378, § 3, Aug. 17, 1974, 88 Stat. 477.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is classified to section 528 et seq. of this title.

The National Environmental Policy Act of 1969, referred to in text, is classified to section 4321 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1604, 1606 of this title.

§ 1603. National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment.

As a part of the Assessment, the Secretary of Agriculture shall develop and maintain on a continuing basis a comprehensive and appropriately detailed inventory of all National Forest System lands and renewable resources. This inventory shall be kept current so as to reflect changes in conditions and identify new and emerging resources and values. (Pub. L. 93–378, § 4, Aug. 17, 1974, 88 Stat. 477.)

§ 1604. National Forest System land and resource management plans; development, maintenance and revision by Secretary of Agriculture as part of Program; coordination; criteria.

(a) As a part of the Program provided for by section 1602 of this title, the Secretary of Agriculture shall develop, maintain, and, as appropriate, revise land and resource management plans for units of the National Forest System, coordinated with the land and resource management planning processes of State and local governments and other Federal agencies.

(b) In the development and maintenance of land management plans for use on units of the National Forest System, the Secretary shall use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences. (Pub. L. 93–378, § 5, Aug. 17, 1974, 88 Stat. 477.)

§ 1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.

The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this chapter to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land. (Pub. L. 93–378, § 6, Aug. 17, 1974, 88 Stat. 478.)

CODIFICATION

"This chapter" was in the original "this Act", referring to Pub. L. 93–378, which enacted this chapter and amended section 581h of this title.

§ 1606. Budget requests by President for Forest Service activities.

(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval.

On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 1601 of this title and the Program as set forth in section 1602 of this title, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the

Congress, unless, before the end of the first period of sixty calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period. Notwithstanding any other provision of this chapter, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

(b) Contents of requests to show extent of compliance of projected programs and policies with policies approved by Congress; requests not conforming to approved policies; expenditure of appropriations.

Commencing with the fiscal budget for the year ending September 30, 1977, requests presented by the President to the Congress governing Forest Service activities shall express in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the policies approved by he Congress in accordance with subsection (a) of this section. In any case in which such budget so presented recommends a course which fails to meet the policies so established, the President shall specifically set forth the reason or reasons for requesting the Congress to approve the lesser programs or policies presented. Amounts appropriated to carry out the policies approved in accordance with subsection (a) of this section shall be expended in accordance with the Congressional Budget and Impoundment Control Act of 1974.

(c) Annual evaluation report to Congress of Program components; time of submission.

For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 1602 of this title which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after August 17, 1974.

(d) Required contents of annual evaluation report.

These annual evaluation reports shall set forth progress in implementing the Program required to be prepared by section 1602 of this title, together with accomplishments of the Program as they relate to the objectives of the Assessment. Objectives should be set forth in qualitative and quantitative terms and accomplishments should be reported accordingly. The report shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. Program benefits shall include, but not be limited to, environmental quality factors such as esthetics, public access, wildlife habitat, recreational and wilderness use, and economic factors such as the excess of cost savings over the value of foregoing benefits and the rate of return on renewable resources.

(e) Additional required contents of annual evaluation report.

The reports shall indicate plans for implementing corrective action and recommendations for new legislation where warranted.

(f) Form of annual evaluation report.

The reports shall be structured for Congress in concise summary form with necessary detailed data in appendices. (Pub. L. 93–378, § 7, Aug. 17, 1974, 88 Stat. 478.)

REFERENCES IN TEXT

Congressional Budget and Impoundment Control Act of 1974, referred to in subsec. (b), is Pub. L. 93–344, July 12, 1974, 88 Stat. 297. For distribution in this Code of such Act, see Short Title note set out under section 1301 of Title 31, Money and Finance.

CODIFICATION

"This chapter" was in the original "this Act", referring to Pub. L. 93–378, which enacted this chapter and amended section 581h of this title.

§ 1607. National Forest System renewable resources; development and administration by Secretary of Agriculture in accordance with multiple use and sustained yield concepts for products and services; target year for operational posture of resources; budget requests.

The Secretary of Agriculture shall take such action as will assure that the development and administration of the renewable resources of the National Forest System are in full accord with the concepts for multiple use and sustained yield of products and services as set forth in the Multiple-Use Sustained-Yield Act of 1960. To further these concepts, the Congress hereby sets the year 2000 as the target year when the renewable resources of the National Forest System shall be in an operating posture whereby all backlogs of needed treatment for their restoration shall be reduced to a current basis and the major portion of planned intensive multiple-use sustained-yield management procedures shall be installed and operating on an environmentally-sound basis. The annual budget shall contain requests for funds for an orderly program to eliminate such backlogs: *Provided*, That when the Secretary finds that (1) the backlog of areas that will benefit by such treatment has been eliminated, (2) the cost of treating the remainder of such area exceeds the economic and environmental benefits to be secured from their treatment, or (3) the total supplies of the renewable resources of the United States are adequate to meet the future needs of the American people, the budget request for these elements of restoration may be adjusted accordingly. (Pub. L. 93–378, § 8, Aug. 17, 1974, 88 Stat. 479.)

REFERENCES IN TEXT

The Multiple-Use Sustained-Yield Act of 1960, referred to in text, is classified to section 523 et seq. of this title.

§ 1608. National Forest Transportation System; Congressional declaration of policy; time for development; method of financing; financing of forest development roads.

The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in Public Law 88–657, shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits, except that the financing of forest development roads as authorized by clause (2) of section 535 of this title, shall be deemed "budget authority" and "budget outlays" as those terms are defined in section 1302(a) of Title 31, and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 1351(a) of Title 31. (Pub. L. 93–378, § 9, Aug. 17, 1974, 88 Stat. 479.)

REFERENCES IN TEXT

Public Law 88–657, referred to in text, is classified to section 532 et seq. of this title.

§ 1609. National Forest System; Congressional declaration of constituent elements and purposes; lands, etc., included within; location of Forest Service offices.

(a) Congress declares that the National Forest System consists of units of federally owned forest, range, and related lands throughout the United States and its territories, united into a nationally significant system dedicated to the long-term benefit for present and future generations, and that it is the purpose of this section to include all such areas into one integral system. The "National Forest System" shall include all national forest lands reserved or withdrawn from the public domain of the United States, all national forest lands acquired through purchase, exchange, donation, or other means, the national grasslands and land utilization projects administered under title III of the Bankhead-Jones Farm Tenant Act, and other lands, waters, or interests therein which are administered by the Forest Service or are designated for administration through the Forest Service as a part of the system.

(b) The on-the-ground field offices, field supervisory offices, and regional offices of the Forest Service shall be so situated as to provide the optimum level of convenient, useful services to the public, giving priority to the maintenance and location of facilities in rural areas and towns near the national forest and Forest Service program locations in accordance with the standards in section 3122(b) of Title 42. (Pub. L. 93–378, § 10, Aug. 17, 1974, 88 Stat. 480.)

REFERENCES IN TEXT

Title III of the Bankhead Jones Farm Tenant Act, referred to in subsec. (a), is act July 22, 1937, ch. 517, title III, 50 Stat. 525, and is classified to section 1010 et seq. of Title 7, Agriculture.

§ 1610. Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc., definition of "renewable resource".

In carrying out this chapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on August 17, 1974. (Pub. L. 93–378, § 11, Aug. 17, 1974, 88 Stat. 480.)

CODIFICATION

"This chapter" was in the original "this Act", referring to Pub. L. 93–378, which enacted this chapter and amended section 581h of this title.

Chapter 37.—YOUTH CONSERVATION CORPS [NEW]

Sec.

1701. Congressional declaration of policy and purpose.
1702. Establishment.
(a) Age of participants.
(b) Equal employment opportunity and employment; term.
1703. Duties and functions of Secretary of the Interior and Secretary of Agriculture.
(a) Programs and projects; conditions of employment; regulations; use of facilities by educational institutions.
(b) Use of unoccupied federal facilities and equipment.
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1704. Grants to States.
(a) Projects for preservation of non-Federal public lands and waters; definition.
(b) Application requirements for grants; approval by Secretaries.
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(d) Appropriation percentage.
1705. Reports to President and Congress.
1706. Authorization of appropriations.

CODIFICATION

Pub. L. 91–378, Aug. 13, 1970, 84 Stat. 794, classified to this chapter, was formerly classified as a note preceding section 2711 of Title 42, The Public Health and Welfare.

§ 1701. Congressional declaration of policy and purpose.

The Congress finds that the Youth Conservation Corps has demonstrated a high degree of success as a pilot program wherein American youth, representing all segments of society, have benefited by gainful employment in the healthful outdoor atmosphere of the national park system, the national forest system, other public land and water areas of the United States and by their employment have developed, enhanced, and maintained the natural resources of the United States, and whereas in so doing the youth have gained an understanding and appreciation of the Nation's environment and heritage equal to one full academic year of study, it is accordingly the purpose of this chapter to expand and make permanent the Youth Conservation Corps and thereby further the development and maintenance of the natural resources by America's youth, and in so doing to prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. (Pub. L. 91–378, § 1, Aug. 13, 1970, 84 Stat. 794, amended Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066.)

AMENDMENTS

1974—Pub. L. 93–408 substantially reenacted existing provisions and added finding that the Youth Conservation Corps program be expanded and made permanent in view of the success of the pilot program.

1972—Pub. L. 92–597 substituted "areas of the United States" for "areas administered by the Secretary of the Interior and the Secretary of Agriculture".

§ 1702. Establishment.

(a) Age of participants.

To carry out the purposes of this chapter, there is established in the Department of the Interior and the Department of Agriculture a Youth Conservation Corps (hereinafter referred to as the "Corps"). The Corps shall consist of young men and women who are permanent residents of the United States, its territories, possessions, trust territories, or Commonwealth of Puerto Rico who have attained age fifteen but have not attained age nineteen, and whom the Secretary of the Interior or the Secretary of Agriculture may employ without regard to the civil service or classification laws, rules, or regulations, for the purpose of developing, preserving, or maintaining the lands and waters of the United States.

(b) Equal employment opportunity and employment; term.

The Corps shall be open to youth from all parts of the country of both sexes and youth of all social, economic, and racial classifications with all Corps members receiving compensation consistent with work accomplished, and with no person being employed as a member of the Corps for a term in excess of ninety days during any single year. (Pub. L. 91–378, § 2, Aug. 13, 1970, 84 Stat. 795, amended Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1066.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–408 extended eligibility to permanent residents of Puerto Rico, removed the restriction that employment be in the summer months only, and substituted "waters of the United States" for "waters of the United States under his jurisdiction".

Subsec. (b). Pub. L. 93–408 substituted "from all parts of the country of both sexes and youth of all social, economic, and racial classifications with all Corps members receiving compensation consistent with work accomplished, and with" for "of both sexes and youth of all social, economic, and racial classifications, with".

1972—Subsec. (a). Pub. L. 92–597 substituted "established in the Department of the Interior and the Department of Agriculture a Youth Conservation" and "under his jurisdiction" and "hereby established in the Department of the Interior and the Department of Agriculture a three-year pilot program designated as the Youth Conservation" and "under the jurisdiction of the appropriate Secretary" respectively, and extended eligibility to permanent residents of trust territories.

§ 1703. Duties and functions of Secretary of the Interior and Secretary of Agriculture.

(a) Programs and projects; conditions of employment; regulations; use of facilities by educational institutions.

In carrying out this chapter, the Secretary of the Interior and the Secretary of Agriculture shall—

(1) determine the areas under their administrative jurisdictions which are appropriate for carrying out the programs using employees of the Corps;

(2) determine with other Federal agencies the areas under the administrative jurisdiction of these agencies which are appropriate for carrying out programs using members of the Corps, and determine and select appropriate work and education programs and projects for participation by members of the Corps;

(3) determine the rates of pay, hours, and other conditions of employment in the Corps, except that all members of the Corps shall not be deemed to be Federal employees other than for the purpose of chapter 171 of Title 28, and chapter 81 of Title 5.

(4) provide for such transportation, lodging, subsistence, and other services and equipment as they may deem necessary or appropriate for the needs of members of the Corps in their duties:

(5) promulgate regulation to insure the safety, health, and welfare of the Corps members; and

(6) provide to the extent possible, that permanent or semipermanent facilities used as Corps camps be made available to local schools, school districts, State junior colleges and universities, and other education institutions for use as environmental/ecological education camps during periods of nonuse by the Corps program.

Costs for operations maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs as well as any liability for personal injury or property damage stemming from such use shall be the responsibility of the entity or organization using the facility and shall not be a responsibility of the Secretaries or the Corps.

(b) Use of unoccupied Federal facilities and equipment.

Existing but unoccupied Federal facilities and surplus or unused equipment (or both), of all types including military facilities and equipment, shall be utilized for the purposes of the Corps, where appropriate and with the approval of the Federal agency involved. To minimize transportation costs, Corps members shall be employed on conservation projects as near to their places of residence as is feasible.

(c) Contracts for the operation of projects.

The Secretary of the Interior and the Secretary of Agriculture may contract with any public agency or organization or any private nonprofit agency or organization which has been in existence for at least five years for the operation of any Youth Conservation Corps project. (Pub. L. 91–378, § 3, Aug. 13, 1970, 84 Stat. 795, amended Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1319; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1067.)

AMENDMENTS

1974—Pub. L. 93–408 reenacted existing provisions with minor changes.

1972—Pub. L. 92–597 substantially reenacted existing provisions and added provisions requiring the Secretary of the Interior and the Secretary of Agriculture to determine and select appropriate work and education programs and projects for participation by members of the Corps and to provide that permanent or semipermanent facilities used as Corps camps be made available to local schools, school districts, and such other institutions for use as environmental education camps during periods of nonuse by the Corps program, that the costs of operation, maintenance, and staffing of Corps camp facilities during periods of use by non-Corps programs and liabilities arising from such use shall be the responsibility of the organization using the facility and, struck out provisions requiring preparation and submission to the President of a report

not later than Aug. 13, 1971, for transmittal to the Congress for review and appropriate action, and that the provisions of Title II of the Revenue and Expenditure Control Act of 1968 shall not apply to appointments made to the Corps, to temporary supervisory personnel, or to temporary program support staff.

§ 1704. Grants to States.

(a) Projects for preservation of non-Federal public lands and waters; definition;

The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) Application requirements for grants; approval by Secretaries.

(1) No grant may be made under this section unless an application therefor has been submitted to, and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by regulation prescribe, and shall contain—

(A) assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall (i) have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or the Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) such other information as the Secretaries may jointly by regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) to meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of non-Federal public lands or waters within the jurisdiction of the applicant.

(c) Limitation on the amount of grant.

(1) The amount of any grant under this section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretaries find necessary.

(d) Appropriation percentage.

Thirty per centum of the sums appropriated under section 1706 of this title for any fiscal year shall be made available for grants under this section for such fiscal year. (Pub. L. 91–378, § 4, Aug. 13, 1970, 84 Stat. 796, amended Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1320; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1067.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–408 substituted "jointly establish a program" for "jointly establish a pilot grant program".

1972—Pub. L. 92–579 substituted provisions relating to pilot grant program for state projects for provisions relating to Secretarial reports.

§ 1705. Reports to President and Congress.

The Secretary of the Interior and Secretary of Agriculture shall annually prepare a joint report detailing the activities carried out under this chapter and providing recommendations. Each report for a program year shall be submitted concurrently to the President and the Congress not later than April 1 following the close of that program year. (Pub. L. 91–378, § 5, Aug. 13, 1970, 84 Stat. 796, amended Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1321; Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1068.)

AMENDMENTS

1974—Pub. L. 93–408 substituted "program year shall be submitted concurrently to the President and the Congress not later than April 1 following the close of that program year" for "fiscal year shall be submitted concurrently to the President and the Congress not later than one hundred and eighty days following the close of that fiscal year".

1972—Pub. L. 92–579 submitted provisions relating to Secretarial reports for provisions relating to authorization of funds.

§ 1706. Authorization of appropriations.

There are authorized to be appropriated amounts not to exceed $60,000,000 for each fiscal year, which amounts shall be made available to the Secretary of the Interior and the Secretary of Agriculture to carry out the purposes of this chapter. Notwithstanding any other provision of law, funds appropriated for any fiscal year to carry out this chapter shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which appropriated. (Pub. L. 91–378, § 6, as added Pub. L. 92–597, Oct. 27, 1972, 86 Stat. 1321, and amended Pub. L. 93–408, Sept. 3, 1974, 88 Stat. 1068.)

AMENDMENTS

1974—Pub. L. 93–408 substituted authorization of appropriation of amount not exceeding $60,000,000 for each fiscal year for authorization of appropriation of amounts not exceeding $30,000,000 for fiscal year ending June 30, 1973 and $60,000,000 for fiscal year ending June 30, 1974.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1704 of this title.